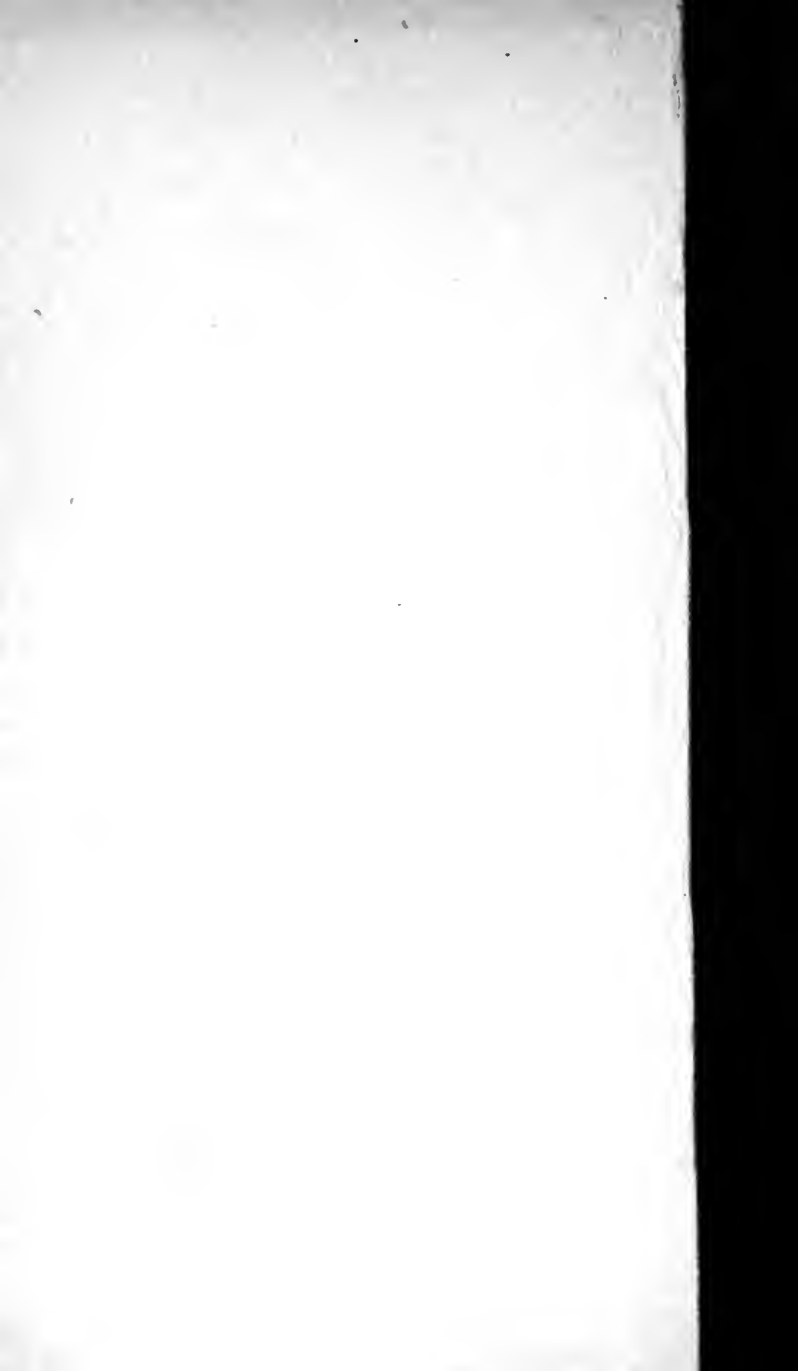


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# Grievances

BETWEEN

## Authors & Publishers

BEING

THE REPORT OF THE CONFERENCES

OF THE INCORPORATED SOCIETY OF AUTHORS

Held at Willis's Rooms, in March, 1887 :

WITH

ADDITIONAL MATTER AND SUMMARY.

---

LORD LYTTON.

SIR FREDK. POLLOCK, BART.

SIR FRANCIS ADAMS, K.C.M.G., C.B.

WALTER BESANT.

EDMUND GOSSE.

JOHN HOLLINGSHEAD.



1887.

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# THE Incorporated Society of Authors.

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## Objects of the Society.

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1.—To further the establishment of an International Copyright Union, and to secure the adhesion of the American Government thereto.

2.—To procure the passage of an Act which shall amend and consolidate the law of Domestic Copyright.

3.—To ascertain and to define the principles which should in equity rule the agreements of authors with publishers.

4.—To examine publishers' accounts, and if necessary to procure an audit as to charges of production.

5.—To examine and advise upon agreements before they are signed.

6.—To draw up for members, free of charge, agreements which shall protect their interests as far as possible for any form of publishing that may be chosen.

7.—To advise them as to the best houses for their MSS; and as to the best form of publication.

8.—To direct members into the hands of honourable Houses, and to protect them from those which live by preying upon authors.

9.—To advise upon the literary worth, &c., of MSS of young authors. For the present, until the members are increased in numbers, there will be a small fee charged.

10.—To promote and advocate generally the interests of authors and of literature.

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*The annual subscription for membership is one guinea;  
and life-membership ten guineas.*

## PREFACE.

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I earnestly beg that all readers of these papers will not lay down the book, should they have read the Report of the Conferences and the letters appended, without reading the summary in which I have answered every objection that seemed worth noting. The question which I asked in my paper—viz: *Where there is no risk, what share in the proceeds of a book should be given to the publisher?*—has not yet been answered. I beg very careful attention to the description given by Mr. Edmund Gosse in his valuable paper on the French Société des Gens de Lettres: What that Society is, and has accomplished, for French Littérateurs shall be done for those of this country by the Incorporated Society of Authors.

W. B.



7  
*Conferences at Willis's Rooms.*

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## THE MAINTENANCE OF LITERARY PROPERTY.

LORD LYTTON.

WALTER BESANT.

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THE first of these Conferences, held by the Society of Authors and their friends, on the Maintenance of Literary Property, was held on 2nd March, 1887, at Willis's Rooms, under the Presidency of The EARL OF LYTTON. The rooms were crowded with members of the Society and others interested in the subject.

LORD LYTTON opened the proceedings. My Lords, Ladies, and Gentlemen—It is my earnest hope that these Conferences may have one effect at least, namely that of drawing greater public attention to the Society of Authors, its aims, its intentions,

and its possibilities, and thereby stimulating and extending that active interest and sympathy with its efforts upon which the Society must mainly depend for success. With the assured support of the literary world I believe it scarcely possible to over-estimate the practical results which the Society is capable of achieving for those who are its members. It is no part of the duty devolving upon me to record or to explain in detail the operations of the Society since its incorporation in 1884. The special subject we are here met to consider is one in which all present, as literary men and women, are directly or indirectly interested, and that is the maintenance of literary property. Upon this subject I hope that we shall receive much valuable information and guidance from Mr. Walter Besant, whom it will be my duty to ask to open the first of the Conferences.

I do not think it can fairly be said that literature, so far as it is regarded as a profession, is in these days unremunerative.

It has become very much less precarious, very much more certain and solid, in proportion as its dependence has been transferred from the individual patron to the general public, which is now the sole patron of modern literature. But in literature, as in other affairs, the public employs two classes of persons—those who produce, and those who distribute; and although those two classes are united in one common interest in so far as they both depend upon the sale of the same commodity, still their functions are essentially different. The function of the one is purely intellectual, while that of the other is mainly commercial. Another difference between the two classes is that the distribution and publication of books is necessarily a business or trade, whereas the production of literature is not necessarily a business at all. You all know that literature owes some of its highest and most delightful productions to writers who have not been engaged in literature as a profession. When the producer has finished his work he finds himself

confronted with the practical question of how to dispose of his produce, how best and most profitably to invest the fruits of his labour. And here, unhappily, he is in a very exceptional and disadvantageous position as regards the middleman or distributor when compared with other trades or professions. For in other trades and professions the producer and distributor both have experience of the business in which they are engaged, and can arrive at an understanding without difficulty. But the author finds, by repeated experience, that if he seeks expert advice, the subject seems so full of technical details, so entirely outside the ordinary experience of solicitors, that no honest solicitor would venture to give him advice respecting the management of his contracts or the making up of publishers' accounts. The Society of Authors, I think, represents the first combined attempt on the part of those who are engaged in the production of literature to remedy this state of things by taking the advice given by Hercules to the



waggoner, and putting their own shoulders to the wheel. It aims at carrying out functions similar to those exercised by the Société des Gens de Lettres in France. The Society provides for the individual author not only professional but specialist and expert assistance upon the management of those matters of business in connection with the middleman or distributor, upon which the author must depend for the fruits of his labour, if it has any commercial value at all. Even if the Society did no more, it would by this one function render immense service to authors. In point of fact, however, it will do much more. The only misgiving which I feel is lest the Society may at some future time be induced by its success in practical directions to undertake functions which might be of too delicate a nature to be exercised successfully by a corporate body. I fear it is as true now as in the days of Gil Blas, that authors, while proverbially eager to solicit the most candid advice and opinion about their MSS, are

not found to be particularly grateful for the advice if it should not happen to coincide with their own belief. I am afraid that any adviser charged by the Society to undertake such delicate duties would find it difficult to reconcile his own views with those of the persons who consulted him. I recollect once seeing an advertisement in a newspaper from a person who wanted to borrow one thousand pounds, and who offered as security an epic poem, written by himself, which he valued at ten thousand pounds. Whether he got anyone to lend him the money was unknown, but it might be assumed that he did not. I am quite sure that there were few of them who had not been embarrassed, and even pestered and annoyed, by applications from wholly unknown correspondents, calling upon them, as a matter of course, to read with great and particular care some lengthy MS. written by the correspondent, and to promptly communicate a candid opinion and advice as to what should be done with it. Perhaps the

best, though not the most courteous, reply to give was something like that made by a gentleman, who, when asked to decide upon the relative merits of two sonnets, and to give his opinion as to which was the best, read the first, and exclaimed "The other." If the official adviser of the Society were to follow that example its membership would probably very steadily decrease ; but I take it that one object is to give authors those opinions now given to publishers by their readers. On one point I hope that there would be no misconception. The aim of the Society is in no sense antagonistic to the legitimate interest of the publishing and bookselling trades, and, that being so, I think we are entitled to their sympathy and co-operation, especially in regard to the efforts we are making to improve the copyright law and to obtain the great desideratum of an international copyright law with the United States of America. I have heard it contended seriously that

there ought to be no such thing as copyright in literature, but, however that might be, I take it that the aim of the Society is not to discuss whether there ought to be such copyright, but which are the best means of maintaining the rights which are allowed to exist. I will now, Ladies and Gentlemen, call upon Mr. Walter Besant to read the first paper.

MR. WALTER BESANT then read the following paper on the Maintenance of Literary Property. \*

There are two kinds of Literary Property. There is one, of which an author cannot be deprived when he has once made it for himself. This is the kind symbolized by the Laurel. It is with the other kind—the lower and less noble kind—that we have this day to deal; that which the author acquires in his capacity

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\* There have been many statements made in the journals that arguments advanced in the following paper have been altered or retracted. It is, therefore, necessary to state that this paper is printed exactly as it was read.

of Producer or Creator of something which has a marketable value and is openly bought and sold in the same manner as the kindly fruits of the earth. This kind of Property, the profit of trade in the author's production, has grown of late years into enormous dimensions. The yearly bulk of the book trade in this country alone amounts to many millions. There are a million pounds' worth of books exported every year ; and though we are not, unhappily, a book-buying people, the trade in books of all kinds, especially educational books, is continually and rapidly increasing. If we consider, in addition, the American book-market, the amount represented by the yearly sale and purchase of books written in English is very large indeed. Now, although a certain proportion of the trade consists of ancient and dead authors, the great mass of it is the production of living men and women—people of the present generation; it is wholly due to their energy, their ingenuity, and their learning. They create

the books, as much as the silkworm creates the cocoon—out of themselves. Without their continually renewed efforts the trade would suddenly become extinct, save for the work of the dead. The enormous mass of material yearly offered by those people to the reading public is administered, as we know, by publishers, who send the book to the press, advertise it, distribute it, and collect the money. The publishers of London alone amount to about 275, of whom, however, many may be neglected as of small account. Some of them are great companies, some are stately houses with armies of managers, clerks, and servants ; many are small traders with little capital. Some are specialists : scientific, medical, educational, and geographical. Some publish everything, but have a name for certain branches of literature. All are alike in one respect, that they live by the production and the sale of new books or new editions, and that they are continually, in the exercise of their calling, looking out for more of those men and women who

have the gift, or the trick, of producing material such as the world desires to purchase and possess.

So far I have merely stated what will be acknowledged by all. The publishers are the administrators of the great literary property created by the authors. As administrators, or distributors and collectors, as agents, in short, the publishers have a perfect right to payment for their services. Many disagreements between author and publisher would never occur if this simple rule were borne in mind. Men do not work for each other without payment. Still more, they do not pay heavy rents, embark great capital, keep travellers, clerks and accountants simply in order to do good to their fellow man. Let us never forget this. *He who enters a publisher's house and entrusts his book to him for publication, will have to pay for the services he engages just as much as if he had gone to his solicitor and entrusted him with the management of his affairs.*

In what follows, therefore, it is not our

intention to attack publishers who, in some form or other, are indispensable to authors. It would be most unjust, in consideration of the honourable men engaged in this work, to attack them. There are many in this room who have private and personal friends among publishers. I have myself, for instance. At the same time it would be folly to disguise the truth, which is, that the relations between author and publisher are at the present moment most unsatisfactory. They have always been strained; the increase and development of literary trade only makes this strain felt more keenly; there is no other calling at which so many epigrams have been hurled as the calling of publisher—not even that of king, pope, or minister. On the other hand, there is no workman so discontented with his pay as the author; there is none so jealous and suspicious of his treatment; there is no kind of work which causes so much disappointment as literary work.

The Society of Authors was founded partly in the hope of finding some remedy



for this state of things. Hitherto we have confined our efforts to special cases, interfering for the protection of authors who have come to us with a grievance, real or imaginary. It is now felt, however, that the tinkering of individual cases is but a small thing compared with general principles. Now, a very remarkable and exceptional state of things exists in literature. *No one in this country, or in any other country, has at any time ever attempted to ascertain the true principles, founded on equity and justice, which should govern the relations between author and publisher.* There are at least a dozen different methods proposed by the latter and accepted by the former. But among them all, there is not one which has been either proposed—with the knowledge of figures and facts—because it is equitable, or attacked because it is contrary to equity.

Yet this is a subject which most earnestly and deeply concerns every one who puts a book upon the market. Not the professional author only, but every man who

even once in his life thinks he has a message to deliver to the world. Consider, if you please, the case of a man who buys an estate or a house. He protects himself, and is protected, not only by law, but by the assumption, which is universal, and therefore gives no offence, that he is dealing with one who will over-reach him. He insists—still giving no offence by so doing—upon agreements carefully considered and drawn up by lawyers. Yet in the case of a book, which may possibly prove equal in value to a very great estate, he is generally content with the bare word of the publisher ; he signs what he is told to sign in perfect ignorance of the facts, and he does not even ask whether the arrangement proposed to him is fair, or reasonable, or customary. This carelessness, which, applied to other kinds of business, would be considered madness, is itself extraordinary enough, but unfortunately, even if that man was to ask there would have been no one to give him an answer or any advice until the foundation

of this Society, and I am not certain that we could give him, even now, so full and certain an answer as we would wish.

Will you, therefore, help us by considering a question which is put before you now for the first time. It is this :  
*"What proportion of the results from the sale of a book should be retained by the publisher in payment of his services for producing a book in the publishing of which there is no risk?"*

Observe that we limit the question to the production of books in which there is no risk. The reason of that limitation is this. A great change has come over the trade of literature since the days, now more than a hundred years ago, when the production of every book was a risk. There are now a great number of writers in every department about whose books there is no risk at all. This is so well known that few publishers, indeed, ever incur any risk whatever. Practically, and as a general rule, except in the case of educational books, we may take it that

when a publisher undertakes the whole risk of a book, he knows that there are no risks. There are, of course, exceptions to this general statement, but for our purposes it is near enough.\* Where there is risk the author has generally, in the present state of the trade, to undertake the whole cost, or a part of it. Why, out of the hundreds of novels published every year, nearly three-fourths are issued subject to the author laying down a sum of money beforehand for the expenses. Those who understand things can tell, merely by looking at the name of the publisher and the author, whether the book is paid for by the latter or not. And when a book by a new hand is brought out at the sole risk of the house, it is very certain that the opinion expressed by the reader of the house was a very high opinion indeed.

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\* An obvious exception is where the publisher buys a book of the author. He may very easily, and often does pay more than the book is worth. But there are now very few publishers who buy books direct of the author.

In endeavouring to answer this question, we must consider some of the various systems of publishing now practised. They resolve themselves into four principal methods :

- a.* That where the publisher buys the book right out.
- b.* That of half profits.
- c.* That of a royalty.
- d.* That of publishing by commission.

I. With regard to the first, nothing can be said except that one who sells his book will do well first to consult the Society as to the price offered. One would not recommend an author to sell a book out completely ; but if he does so, it only remains for him to find out if he can get better terms elsewhere. This method is purely a question of terms. A producer brings his wares to market and is offered so much for them. It is for him to take or to leave. There will always be plenty of writers who cannot wait for the slow results of trade, and will prefer to sell their books at once for whatever they will fetch.

## II. The system of half profits.

This is the old-fashioned method, by which the publisher relieves the author of all risks, and promises him half the profits. It sounds well at first, especially to a writer who understands nothing of the risk and does not realize what he may be giving away. And, formerly, when the method was first invented, publishing was much more uncertain, and there were risks with every book. Now, as I have already stated, such an offer is not likely to be made, unless where there is no risk at all.

The plan has fallen into disfavour owing to a custom, which has gradually sprung up, of making a secret and underhand profit on the cost of production. Thus, in addition to the legitimate and stipulated half-profits, the cost of production in all its branches—printing, paper, binding, and advertising—has been boldly set down as greater, in some cases very much greater, than that actually incurred. It is difficult to speak of this practice without using

hard words. I will, however, merely illustrate the thing by asking one question—*What would be said in the City if, when two men had agreed on sharing the profits of an enterprise, the one who kept the books were to make a secret profit for himself by setting down the expenses as greater than those actually incurred?* It is not half the profits that the author gets by this arrangement, but a quarter, or none at all, or anything that his publisher chooses; because he can charge exactly what he pleases. Observe that I make no objection *in limine* to the publisher making a profit on the cost of production. That seems defensible when previously stipulated and understood, and even, especially in the case of books with a small sale, most reasonable. I only say that to do this secretly, and without previous agreement with the author, is a thing which no firm which respects its good name can for one moment attempt to justify. The publisher, remember again, issues his books for profit; he lives by his business; he

*must* make money, some money, on every book he issues. Where the sale will be small, he is perfectly justified, I think, in stipulating for a charge of something, whether it be a percentage on the cost of production or a retaining-fee, so that he shall not have to give his time and labour for nothing. Some houses have, in fact, adopted the practice of inserting a clause to this effect in their agreements. But for a publisher in a secret and underhand manner to overcharge every item of expense incurred, and then blandly to assure his client that he is receiving half the profits—what defence can be set up for this practice? how can it be justified?

I cannot tell if any justification would be even attempted, but I can tell you how the practice has become possible. *It is because, in rendering their accounts, publishers have never submitted vouchers of the items charged, nor have authors demanded a scrutiny of the books.*

In every other business arrangement between man and man, the examination,



scrutiny, and auditing of accounts is a necessary part of the business. I do not in the least understand how publishers have come to consider themselves so much above the ordinary level of mankind that their word alone should be taken as proof of the accuracy of their accounts. To fall back upon our previous illustration, what would be said in the City, when two men went shares in an enterprise, *should the one who did the active part refuse to let his accounts be examined?*

Consider, again, what a terrible temptation this secrecy offers to the dishonest and to the impecunious. Put yourself in the place of some poor, struggling publisher with whom perhaps times are bad. He has a paper-making bill to meet; he has his clerks to pay; his printers are dunning him; his binder waits to see him; his household expenses are going on. He is making out an account for an author. No one will find him out if he sets down the expenses of the book at half as much

again, or twice as much again, as they actually were. No one will find him out—that is a very dreadful temptation to a poor man. In every other calling there is always danger of being found out in a fraud. In this calling a fraudulent person will never be found out. The worst that can happen to him is that some time or other his statement of accounts may fall into the hands of the Society of Authors, who will in future dissuade their members from going to him. But he need not fear the man in blue: no one will ever find him out. I think that this absolute immunity from the fear of punishment and disgrace ought no longer to be suffered: it is too great a temptation—it expects too much of our fallen nature. You see, our publisher hesitates; it is not to consider whether he will resist the temptation to enact the part of the unjust steward: he has long since gracefully yielded to the temptation: he is considering if he can go so far as to charge fifty per cent. on the cost of production. A dash of the pen, and it is

done ; *and what would they call that man in the City ?*

It may be urged that the competition of publishers and the combination of authors among themselves prevent the abuse of this immunity from punishment. *Competition does not touch the abuse, because all alike demand this immunity.* And authors have only just begun to converse with each other with understanding, only in fact, since the Society of Authors was established.

But, that I may not be accused of extravagance, I will tell one anecdote. A young writer had a MS. which he was anxious to publish ; no doubt a MS. of small marketable value, but he wished to publish it. He went to a publisher and offered it. He was presently told that the house would not take the risk, but that they would publish it for him if he would do so ; that it would cost him £120, which he was to lay down in advance, besides the advertisements, which were to come out of the sale of the book ; and that the

house would take for their trouble fifteen per cent. commission on all sales.

Fortunately, before signing the agreement and paying the money, he took advice, and was recommended to get a separate estimate from a printer. The cost of production by that estimate was £65. You will observe how the method of secrecy enabled the publisher to put nearly a hundred per cent. on the actual cost of production, besides fifteen per cent. on the sales. What success would make a book so loaded at the outset remunerative to the author?

I think, therefore, that we have gone so far as to be enabled to lay down two clear and well-established rules founded on common justice and honesty. First, that *without previous agreement with the author, there shall be no charge on the cost of production.* That is to say, there shall be no secret profit. Next, *that all accounts shall be open to inspection, receipts exhibited, number of books counted, in the manner common in all other kinds of business.*

III. So great, and so widely spread, has been the disgust caused by these and other practices, that publishers have been driven to invent new methods in the hope of allaying the profound suspicion and irritation that had grown up. Many of these new methods exist, but they are all forms of one principle—namely, that of the royalty.

I had prepared a small array of figures, showing you the actual cost of production and the comparative results of the royalty to author and publisher; but I refrain from troubling you with these. I may, however, mention that the Society possesses full and exact information on the whole question of cost of production of books in every shape. It will now be sufficient for my purpose, and simpler for you to understand, if I give you a single illustration.

Everybody, at first, was taken with the idea of the royalty system. It is a system by which the author felt that he was bound to get something, however little.

He would not feel that his work had been quite thrown away. He was incapable of understanding what the proffered royalty really meant, because he knew nothing whatever about the cost of production. All that he was sure of was that he should get something.

Now for my single illustration.

It is that of one of the volumes which are sold for six shillings apiece. I mean such a volume as contains about the amount of matter of a single-volume novel. This book, if it is a really successful book, costs to produce, binding and all, about 1s. 6*d.*—it is really less, but we will leave a little margin. The publisher gets 4*s.* a copy—it is really less, but we leave a margin. If he gives his author a tenth royalty, which is the common practice in America and is not uncommon here, the writer gets about 7*d.* a copy, he has for himself nearly 2*s.* profit on every copy. If he gives his author twenty per cent., which is considered fabulous generosity, he pays 1s. 6*d.* for the production,

1s. 2*d.* to his author, and keeps 1s. 4*d.* for himself. Suppose that 10,000 copies are sold. The publisher, on the ten per cent. royalty, makes a profit of £1,000 to the author's £300; and on the twenty per cent. plan the publisher makes a profit of £666, and the author £600. It would almost seem as if we were better off under the old-fashioned half-profits system.\*

The system adopted in France, where the recognition of literary property, as well

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\* Nearly all the letters which were written to the papers on the subject of my address attacked this statement, or misunderstood it. I, therefore, wrote to one or two papers and gave more exact figures. I said that a really successful book of the length described, viz., one-third the length of a three volume novel, can be produced for 1s. 1*d.* or 1s. 2*d.* a copy, and that it is sold for 3s. 7½*d.* If this sum be worked out it will come very nearly to my proportion as stated above. Of course I took an extreme case. There are few books indeed which are so successful, and there are some houses which would sell a six shilling book at half the advertised price or three shillings. But in drawing up an agreement an author will do well always to consider the extreme case as possible, and to act as if his book was going to be as successful as any book of the day.

as of authors, has always been much more just and generous than here, is, I believe, the following: With the three-franc books, of which they publish so many in Paris, a well-known and successful author receives a royalty of one franc;\* so that two francs are left for the cost of production in the first place, and that of advertising and publishers' agency in the second. This is equivalent to a royalty of one-third, or thirty-three per cent.

Going back to my illustration of a six-shilling book, I find that, under this arrangement, supposing the sale to be 10,000 copies, the author would get £1,000, and the publisher £1,000, out of which he would have to pay about £700 for production. You will observe that the position of the author is three times as good in France as it is here under a ten per cent. royalty.

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\* This statement, I have since discovered, must be modified. A successful author receives one franc royalty on a book nominally priced at 3.50 francs. This, however, begins after the first 5,000 are sold. For the first 5,000 he receives a royalty of about  $7\frac{1}{2}d$ .



But there is more. The French law further protects the author. It forbids the printer to print any copies at all, except by order of the author. Without a *bon à tirer* signed by the author the printer may not print a single copy. If he print a single copy above what is ordered by the author, he is liable to be brought before the Police Correctionnelle.\*

IV. Lastly, there is the method of publication on commission, by which the publisher professes simply to charge a certain percentage, generally fifteen per cent., on all sales. As, however, it is too often the case that he makes use of the secrecy and immunity of his accounts to make, in addition, a handsome profit on the cost of production, the same objections may be made to this method as to that of the half-profit system. Fairly and honestly carried out, there can be no better arrangement. Unfortunately, however (another proof of the jealousy and bad feeling in the air) there

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\* See Mr. Gosse's paper for further particulars on the Société des Gens de Lettres.

is prevalent the suspicion that not only does the publisher make a profit on the cost of production, but also that he does not push a commission book so vigorously as those which are his own by right of purchase, or which he publishes on more advantageous terms.

There is no remedy for this except watchfulness on the part of the Society, and the knowledge that such treatment of authors may possibly be followed by a decrease of business.

You have now considered briefly the four different methods of publication, and are in a better position to consider the question proposed to you. I repeat it: "*What share out of the proceeds of a book should be retained by the publisher in return for his services in producing a book in which there is no risk?*"

Let us hear his own statement of the case.

He says: "I have a large house of business in a convenient place, for which I pay a heavy rent. I have travellers

who go about town and country among the trade, constantly engaged in pushing the books which I produce. I have a great many accountants, clerks, and servants in my pay. I have highly paid readers whose literary judgment is practically at the service of every applicant, because I am always on the look out for new and good material. I have a large capital, either originally embarked in the business or gradually accumulated by my own thrift, energy, prudence, and forethought. I have a large experience in the publishing of books, and an intimate acquaintance with the book-market and its fluctuations. My name is widely known in the trade. I am skilled in the adjustment of prices, and in their modification to suit the exigences of the time. I know how and where best to advertise. All these advantages I place unreservedly at the service of the authors who come to me. If their books succeed, half their success is due to me. And for my share I claim a very considerable part of the profits."

That, I believe, is the publisher's case, as he would put it. It cannot be denied that there is a great deal of truth in it. The doubtful point is—whether the success of a book is due to the publisher or not ;\* and, if so, how far ? A bookseller, for instance, may advance a book very much by keeping it prominently exhibited on the counter. But all the publishers' travellers together are always urging him to do this, and he cannot listen to all. A book is advanced first by favourable criticism ; but, thank Heaven ! no one yet has accused our critics or our literary journals of being in the pay of publishers. Critics have been accused of log-rolling for their friends, but not, so far, for the publishers. The next thing—and this is by far the most important—is that people, when they get together, begin to talk of a certain book. When all the world begins to talk at once of a new book, all the pub-

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\* See Mr. Geo. Smith's letter in which, among much that I cannot allow, the case of the publisher is put much better than I could do it.

lishers together could neither stop it if they wished, nor could they make it go any faster if they tried. The pushing by booksellers is the least important method and the least to be relied upon, because they know their own interests too well to force books into unwilling hands.

It remains, however, certain that in good hands a book has a much better chance than in bad hands.\* It is also certain that publishers must be paid for their services. Let us repeat this and never forget it.

What then should they get?

I am inclined, subject to another and alternate plan, to propose the following, which I by no means advance as final :

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\* Authors sometimes seem to think that publishers are all alike. This is a great mistake. Even a good book may have its chances destroyed by being in the hands of a firm of doubtful credit, while there are one or two so-called publishing companies or firms, the very imprint of which is enough to condemn a book. The Society knows most of the doubtful and dishonest houses and their tricks, and can keep its members out of their clutches.

I think that authors would be ready for the present to adopt the French system with certain modifications. That is to say, *those who have books to produce in which there is no risk*, would be willing to give them to the publishers on the following terms.

1. They would receive a royalty of one-third the published price.

2. By the published price would mean not the price advertised, but *that actually paid by the public*. Thus, a 6s. book now means, by an absurd and foolish system of discount by which authors, publishers, and booksellers all alike suffer, no more than 4s. 6d. By our system, therefore, the author would receive 1s. 6d. on every copy sold.

3. But, in order to ensure that the publisher shall be paid for his labour, a fee, the amount to be agreed upon, should first be charged on the book, to come out of the publisher's profits beyond the actual cost of production. This amount, I think, should in no case exceed the sum of £50.

Of course, small houses would not be able to command so large a fee as the large firms.\*

4. The cost of production should be that actually entailed, without any overcharge of any kind, and should be submitted beforehand for consideration. *There must be no secret profits of any kind.*

5. The books concerning the production and the sale of the work should be open to the author, and every account rendered should be duly audited and the vouchers produced.

6. Before parting with his MS. the author would have an agreement properly drawn up, containing clauses binding the publisher against secret profits of every kind, and others enabling him to retain control over his property, and in case of disagreement, to remove it into other hands.

These conditions seem to me to be the outcome of the knowledge acquired by

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\* The first charge would work in this way. On a 6s. book the author's royalty of 1s. 6d. would not be given him until 666 copies had been sold, so that the publisher should take £50. I am speaking always of a book in which there is no risk.

the Society during its two years of active work. I will not fatigue you by the details of practices which we have detected among the less honourable members of the publishing trade. You all know, as I said at the outset, that the condition of things is most unsatisfactory. We are ready with a plan more advantageous to the publisher than the French method, which yet appears to us roughly to meet the justice of the case. We do not expect this plan to be immediately adopted. But it may commend itself gradually. Meantime the immediate reform, in which we are confident that we shall meet with the cordial support of all honourable publishers, as well as of all men engaged in business transactions of every kind, is—*no more secret profits, and the auditing of accounts.*

One more illustration. Take our old friend, the successful 6s. book, with its sale of 10,000 copies. The 6s. means, for the public, 4s. 6d. The author would get 1s. 6d. a copy. On a sale of 10,000 he would make a profit of £750, while the



publisher's profit would be the same. I must say that £750 seems ample payment for the work of distribution and collection.

Having said all I have to say on these dry details, may I conclude, after the fashion of the ancients, with a dream? It is a beautiful dream—a dream of the future; but not of the far distant future—after my time, but in the time of my children perhaps, and my grandchildren certainly.

In this dream, the world is half filled with the great English-speaking race. There are two hundred millions in North America, fifty millions in these islands, a hundred millions in Australia, thirty millions in New Zealand, and thirty millions in other islands and other countries. There are more than four hundred millions of English-speaking people in the world. They are all educated more or less; they all read, not only the daily journals, but books; they have read the great works of their forefathers as boys and girls; they look continually for new books written for themselves by their own generation.

There is a great army of men and women constantly engaged in writing these books. These men and women belong to a great society called the Society of Authors, which has branches all over the habitable globe ; each branch a centre of light and leading, so that not a town or a village all over Great Britain, America and Australia, but has its local secretary, and is in correspondence with the central office. I have not yet learned in my dream whether the central office is to be in Chicago or in London.

This Society is, in my dream, the greatest publishing company ever known. It publishes all the books of its members—that is to say, all the new books of all the authors. It publishes them on one principle—that is to say, the authors take all the risk, if any ; but they are well assured beforehand that no good book, on any subject whatever, incurs any risk. The Society has its own journals and magazines ; it is, like a publisher of the present day, constantly devising new books to meet

the demand of the day, and all the proceeds, except a small percentage for management, go to the authors—not, if you please, a royalty of ten per cent., as is now offered, or a royalty of twenty per cent., which is now considered extravagant; nor a royalty of thirty-three per cent., which is the rule of the French—but all the proceeds, less the cost of production and of management.

Think what that would be, even now, for a successful author! Think what it will be in the future, when international copyright has been granted by the only nation in the world which now refuses it! Think what it will be when these millions upon millions of the English-speaking race are all educated, all reading, all continually demanding new literature of every kind! In those happy days, with such a Society at work, to be a successful author will mean being a member of a profession whose prizes are beyond the hopes of merchant or of speculator. No owner of a silver mine was ever half so rich, no minister of

state was ever half so powerful, as will be the man who then becomes the favourite of the world—no fairy gift in the whole history of benevolent fairies will come anywhere near the gift of writing so as to delight the world. Well, you can begin to make that vision become true. You can make the English Society of Authors, whose strength lies at present chiefly in the justice and the certain ultimate success of their cause, such a great guild of literature—the most powerful city company ever known, because it will be a company having a home in every city. You can make, I say, this dream a reality by the simple process of enrolling yourselves among its members.

SIR FRANCIS ADAMS said: My Lord, Ladies, and Gentlemen—Having acted as British delegate at the International Copyright Conferences at Berne, I have been requested to say a few words with regard to what took place at those Conferences, which were held three years in succession.

You are probably aware that the International Literary Association met at Berne in 1883, and laid the foundation. It is only due to the Swiss Government to say that they rendered valuable assistance to the Association. They accepted the appeal addressed to them to submit the draft Convention drawn up at the meetings to the different Governments of Europe and America, and to invite them to send representatives to a diplomatic conference at Berne.

A Conference accordingly did take place in 1884, and I was appointed, as Her Majesty's Minister at Berne, to attend ; but unfortunately I was not empowered either to speak or to vote.

When I came to England some months later, I received an invitation from the Council of our Society to meet its members, and I impressed upon them the great importance for the representative of Great Britain, as one of the first literary countries in the world, to be allowed, in any future Conference, to take part in

such deliberations and vote. I found the Council very anxious about the matter, and ready to do their best to forward my views. I then made it my duty to go to the Foreign Office and to the Board of Trade, and I learnt that the general opinion was that it was absolutely necessary to the position of Great Britain that we should be thoroughly represented. The end of it was, I am happy to say, that my colleague, Mr. Bergne, of the Foreign Office, and I, obtained leave to speak and to vote, and thus in 1885 Great Britain took her proper place at the second Conference.

As you may imagine, we had some very hard work. The Germans, who were very well up in every point, wanted to proceed at express speed ; the French followed the same course, though they were not inclined to go quite so fast ; so we had to put the drag on, and we submitted that the Convention should contain principles rather than details. I need not trouble you now by going into particulars ; but the result

was that we were able to reduce the draft Convention of 1884 to such limits as to be able to recommend it to the favourable consideration and signature of our Government. Of course, certain alterations had to be made in our own laws, and these were the subject of very serious discussion at the Foreign Office, under the able presidency of Mr. Bryce, who has taken so great an interest in the matter. He was materially aided by Mr. Jenkyns, who drew the Bill for Parliament, and by Mr. Bergne. As you know, ladies and gentlemen, that Bill was passed, with the result that we were able to sign the International Copyright Convention at Berne last September. Great Britain will consequently be one of the original members of the International Copyright Union. I am happy to say that the first ratification of the Convention which has reached Berne came from Great Britain. We hope that, among European countries, France, Germany, Italy, Belgium, Spain, and Switzerland, at all

events, will be ready by September next with their ratifications, and that the new Union will be formed by the end of the year.

With regard to the United States of America, which country is of course of more importance than any other to us, great progress has been made. It had been objected that we ought not to join this Union at all, because the negotiations which, as Lord Lytton has stated, took place some thirty years ago, and others since, came to nothing. I may say that this was not my feeling. On the contrary, I considered that our joining the Union would of itself be something in favour of the Americans following the same course, and if, as I hope and trust, no long time will elapse before all the great States of Europe, as well as some in South America, become members of this new International Union, the United States will hardly be able to keep out of it, but will join it too.

As far as the American Minister at Berne is concerned, I should mention that he has



spoken freely in favour of the Convention, and he expects that his country will, by degrees, view this question in a more favourable light. Already several Bills have been presented to Congress, and the President, in his last message, recommended the subject of International Copyright to the attention of that body.

It is clear, therefore, that the United States have made progress, and I have every hope that many years will not elapse before that great country joins this important Union.

# THE PROFESSION OF AUTHORSHIP.

SIR FREDERICK POLLOCK.

EDMUND GOSSE.

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THE Second Conference was held on the 9th March, in Willis's Rooms. The Chair was taken by SIR FREDERICK W. POLLOCK, Bart., who opened the proceedings with the following address:—

Ladies and Gentlemen,—After the very eloquent address given upon a similar occasion in this room last week by Lord Lytton, and after the very admirable and practical essay which we then had the pleasure of hearing from Mr. Walter Besant, I do not think it necessary now to address you at any great length. Still, there may be ladies and gentlemen here to-day who were not able to be here last week, and I think it may be desirable just again, very shortly, to recapitulate what are the objects, views, and intentions of the Authors'

Society, and to call your attention to what has already been done in achieving those objects in the very short time which has elapsed since they were made generally public.

The first thing we have to say is, that the meeting of last Wednesday, and the publication given to what then transpired by the press, has been followed by more favourable results than even we could have anticipated. There have been correspondence and articles in the daily papers which are just of the sort that we wanted ; and we trust that public discussion and ventilation of the subject will continue until our ends are attained.

Now, I wish it to be most distinctly understood, on the part of the Society, that we have no hostility whatever against publishers. It would be absurd if authors were to entertain any such feelings, and, as a rule, I do not suppose that they do entertain any such feelings. Many of them have been most handsomely and generously rewarded by publishers,

even beyond the letter of their bond ; and I trust that the vast majority of publishers, if not yet attaining to eminence, at least deserve the epithet of respectability.

The three points that were made last week, and which we now again make, are — first, it must be admitted, and is cheerfully admitted, that publishers, as men of business, embarking their capital and enterprise, and giving their own brains and time to the development of a particular business, must receive adequate remuneration, and it must not be forgotten that the business of a publisher is of a very peculiar nature. The wares in which they deal are not of a kind to admit generally of any previous verification of value. They have to cater to the wants and wishes of the reading public, and that public is not always the most judicious, and is frequently uncertain and capricious in what it adopts and what it rejects. Not to speak of recondite works, dealing with out-of-the-way subjects, for which no great amount of popularity can

be expected, we all know that there are works of great value and interest, and exceedingly readable, which somehow or other do not find many readers ; and, on the other hand, there are works which, from hitting the taste of the town for a moment, or dealing with some subject which happens for the moment to be engaging attention, perhaps attain an immediate popularity far beyond their own intrinsic deserts.

A publisher, having to deal with that particular difficulty in his business, must have conceded to him—and there again we freely admit it—the opportunity of making out of each transaction something which must be carried over towards making up the losses in other transactions, and bad debts, and so forth. That, we freely admit and concede, must be the case. But when we come to the mode in which, very frequently, the bargain is concluded—I would rather say, has been concluded hitherto, between publishers and authors, because I do trust very confidently that we shall

very soon be able to speak of it as a matter of the past—when we come to that, we see one very common form of agreement between a publisher and author, to which this Society has lent its utmost efforts to give publicity, because we know that to give publicity to it is at once to put an end to it. I mean the practice which has prevailed in the trade, when the agreement between the publisher and the author takes the form of a contract to share profits, whether half-profits or two-thirds; the result of which is, as has been the case hitherto, that when an account is presented by the publisher to his author, professing to show the profits, it is made out in such a way that certain sums, which really go into the pocket of the publisher as indisputable profits, are lumped in with other sums, and made to appear, not on the credit, but on the debit side of the account. The publisher's account with an author takes this form : You have on the debit side—printing, so much, say a hundred pounds; paper, so much, say another sum; binding, so

much ; advertisements, so much. All that is put down on the debit side. Then on the credit side, there is—sale of so many copies at so much. Whereas, in truth and in fact, in that sum of one hundred pounds for printing is included an amount, say of twenty, twenty-five, or thirty per cent. for discount ; so that what the publisher has really paid to the printer is not one hundred pounds, but say seventy pounds, or some other similar sum.

The same remark applies to the sum supposed to have been paid for paper as it does to printing, and the sum which is supposed to have been paid for binding, as well as to the sum supposed to have been paid for advertisements. And then, when an author, induced by any conversation with anybody that knows anything about it, asks whether that is not so, he is always met by the publisher saying “ But it is not the custom of the trade to supply vouchers ; you must take it exactly as we choose to present it to you, and it is not for you to question or raise any contention about it.”

Now that, we say, is totally wrong and inequitable as between two parties to a contract to share profits—one party refusing to let the other know what the real state of the case is, or to afford to him any opportunity of looking into it by producing any vouchers or giving any explanation. Of course, in all commercial transactions, great and small, in this country, there is a system of trade discount. Well, that in itself is not immoral, and is not wrong. The ultimate purchaser, or consumer of an article which has passed through several hands, having various discounts and commissions to pay, is not concerned with that ; if he can get the article cheaper at some other shop, he goes and does it. But as between two parties to a *quasi* contract of partnership, I say it is very wrong indeed that the partner who has been induced to sign an agreement without knowing what it really means, and who, afterwards finds out what it really does mean, should be denied all opportunity of examining into it. That, I say, is wrong.



Therefore, the three points we have been trying to make are : First, admit that publishers shall have fair profits ; secondly, that there are to be no secret profits—and such are these profits which arise from the mode in which the accounts are made out ; and, thirdly, that those accounts may be verified and open to inspection.

We have had, as I have already said, the gratification of seeing that a considerable discussion has been provoked, and some publishers have taken part in it by letters addressed to the public papers ; and in a paper published only this evening, the *Pall Mall Gazette*, there is a very long and fruitful and satisfactory account of an interview with an eminent member of the firm of Messrs. Chatto and Windus. There you will find that that gentleman has disclaimed any desire to support the system of secret profits ; and in none of the published letters that have come under my notice have I seen on the part of any publisher any attempt to justify or maintain that system.

I may mention one thing which, to me, has always shown how little it was thought to be fairly maintainable, and it is this : that in my long experience in such matters—an experience lying very much in a direction where one was pretty sure to hear of it if it had happened—I think I am quite correct in saying that there has been no instance where a publisher has submitted to come into court as a litigant, where an author has resisted a claim, or has pressed a claim ; and, I presume, the reason of that is, because they must have known that, if once brought into court or before a legal referee of any kind, they must have produced their accounts, and must have submitted them to an examination or the production of vouchers. I think that fact alone would go a long way to show that publishers themselves have always felt that the system could not be justified.

I have another matter to call attention to—a letter which we have received with the greatest possible satisfaction, and which I am sure, ladies and gentlemen, you will

hear with the greatest possible satisfaction, because I think it sounds the death-knell of the system of secret profits ; and that knell is rung from a very lofty tower indeed, and I think it will be heard and attended to everywhere. Mr. Besant has had a letter from Mr. Charles Longman, a member of that eminently conspicuous firm which has so long flourished in Paternoster Row—a firm whose mode of doing business, and the fulness and fairness of whose accounts—made out, of course, according to the old custom of the trade—has never for one moment been disputed. He writes to say that in future his firm will adopt the practice of giving vouchers for accounts. Well, that has come from the great firm of Longman and Co., in Paternoster Row. I venture to think that if that eminent firm of Longman and Co., of Paternoster Row, undertake for the future to furnish vouchers for accounts, every other publisher in the kingdom will not be long in following their honourable example.

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I do not know that I need trouble you with any further remarks of mine, ladies and gentlemen, or detain you any longer from the pleasure of hearing my friend Mr. Edmund Gosse, who has been so good as to promise us some remarks on this occasion, upon the Profession of Authorship, and I will now ask him to proceed with them.

MR. EDMUND GOSSE : Ladies and Gentlemen,—Sir Frederick Pollock has, I think, not overstated the interest with which the public has welcomed the meetings of the Society of Authors. If there were any doubt about that at all, it would, I think, be set at rest by the crowded meeting we hold to-day, nor can that interest fail to be much increased by the remarks that our chairman himself has let fall, and the news that he has given to us. I am conscious, however, that not only must I in any case be much discouraged in following so eminent a friend of the public as my colleague, Mr. Walter Besant, but also that my subject to-day is far less piquant than that which he treated before me.

You listened last Wednesday to an attack on the wicked publisher, which seems to have attracted a great deal of attention. To-day I have nothing to say about him : my few remarks will be directed to the wicked public, and I think that declaration ought to set at rest any fear that this Society intends to deal in personalities, since by placing the public on the same level with the publisher, we certainly put ourselves outside the dread of being charged with dispensing with either, since I can imagine nothing so ludicrous as a Society of Authors whose wish it should be to suppress the whole class of readers.

If I may be allowed to detain you for a few moments in the consideration of what it is we desire to protect against the public—against, that is, of course, such general abuses as we believe to exist—I will at once ask you not to suppose that we have any Quixotic notions in the matter, or that we attempt to do without the laws of political economy. With supply and

demand, those dear old friends, we have no intention of quarrelling ; but we think, without any absurd sentimentality, that there may be some portions of the professional career of a man of letters which organization may take under its protection and may improve. In the first place, I would ask your leave to dwell a few moments on the charge which is sure to be brought against us, if it has not already been brought, that this Society is an organization for the cultivation and preservation of the Amateur. To this, ladies and gentlemen, we emphatically reply in the negative. What is an amateur ? In the other professions I think it is very easy to say what an amateur is. In the medical profession there is the old lady who has her own *Materia Medica*, who makes up her own pillules and her own prescriptions, and who takes them and believes in them. She is the medical amateur. In the legal profession there is the late Tichborne claimant, who, as I am assured, ekes out the money that he receives in his travelling

show, by offering to the inhabitants valuable legal advice, founded on long experience in the courts of Europe. That is the legal amateur. Then, again, in the fine arts, there is the person whom we all know, who paints in water-colours, and is the cousin of the Earl of Cork. Now there is no difficulty in dealing with those amateurs. Not for a moment would any of us confound them with the tolerably skilful practitioner of medicine, who just secures a respectable living. We none of us compare them with the poor artist who conscientiously carries on his work against great troubles and difficulties. These we know are not merely not amateurs, but they are the very extreme opposite of the amateur. To call these people amateurs would be to make the same mistake that I once knew a little Belgian boy to make in objecting to get into a third-class carriage that was full of excellent labourers and peasants, on the ground that he could see that they were all *parvenus*. The half-successful and deserving professional and

the pure amateur are at opposite poles to one another.

Now as to another branch of this subject: the amateur is the very person whom this Society does not want to protect. All over the world, editors are deluged with manuscripts from people who have no vocation whatever to write. Everywhere throughout the Anglo-Saxon world thousands of pens are at work that never ought to be at work at all. One of the functions of this Society, when we succeed in bringing it into full organization, will be to dissuade as many persons as possible from the profession of letters; but when they have once entered it, when their vocation is plain, at all events, to themselves, then it will be our wish to do our best to make things smooth for them.

But we have not quite done with the amateur yet. How far are we sure that these comparisons with the legal and medical, and even with the artistic profession are fair ones? Each of these professions consists of a large number of persons,



who would not make any claim to reach a position above mediocrity ; but who nevertheless, having gone through a technical training, are able to support themselves more or less satisfactorily, and who depend upon the practice of their profession for their entire livelihood.

Now, how many persons like yourselves, I ask you, ladies and gentlemen, all more or less professional authors—how many of you, of us, could live by what we write if we did not eke out our living by journalism? We shall find that we have to take the circumstances into consideration, that, in the finest sense, paradoxical as it may seem, literature is not a profession. If we are to take the men who have other modes of getting the principal amount of their earnings, who are journalists, who have clerkships, who have academical chairs or lectureships, we must remove from the category all but a few very successful novelists. Are all these men, I ask you, to be called amateurs? Was Wordsworth an amateur because he collected stamps

in Westmoreland, or was Fielding an amateur because he was a Westminster magistrate? So that I think we may hardly take the professional comparison as a strictly correct one. What we want to do is, not to deal with the people who are earning their entire livelihood by literature, but to look facts in the face—perhaps to say that nobody ought to expect to live entirely by literature, but certainly that people who make it a fraction of their livelihood are, equally with the wholly professional authors, deserving of such protection as organizations can give them.

In the press we have presented before us optimistic pictures of the delightful condition in which literary men exist at this time. We are pointed back to the eighteenth century, and are told that Grub Street,—or No-grub Street, as it has been called,—is a place which no longer exists: that all now is Arcadian and delightful, and that we all are able, if we behave ourselves, and write with decency, to make handsome salaries.

Gentlemen, I will take the liberty to contradict this, with your permission. I think that the relations of life are much the same now as they were a hundred years ago, and that in the same bodies of men, the same characteristics will be found now that were found then.

Grub Street is with us to-day. It is mitigated to some degree, no doubt—greatly mitigated—by the blessed institution of journalism, which has opened the sluice and, to a great extent, let out the waters. With journalism in particular we have nothing to do here. But when we put aside the relief now afforded by journalism we find things much in the same condition as they were in the last century, or even in many cases worse, since, if journalism now exists, the patron does not exist. You have perhaps some idea, but I think it very possible that you have but little idea, of how much suffering and misery is going on among what are called “people of letters” in the present day; how many men there are that are strug-

gling, loafing about the British Museum, and walking idly up and down Fleet Street—men who might perhaps be the Otways and Chattertons of the age if they had a little more encouragement given to them. But these people—for again we must face the matter not with sentimentality but with common-sense—these men are divided into two great classes, the helpable and the unhelpable. Permit me for a moment to deal with the unhelpable.

In the last century the unhelpable was typically exemplified by a certain Samuel Boyse, the author of a poem on the Deity. Samuel Boyse seems to have started in life with as many advantages as ever befel a man of letters. The number of Earls and Countesses that filed through his career is enough to make the modern unpatroned author envious; but it was impossible for them to help Boyse. His whole life was a long continuation of his being picked up out of the gutter by some noble patron, put on his legs, and seen to fall again the moment he was left. He is

the person who spent six weeks in his bed with his arm thrust through a blanket, because he had pawned everything which he possessed in the world, and who, when a subscription was made for him, spent the first money that came in, still in bed, with his hand still through the blanket, in a feast of truffles. The same Samuel Boyse opened a subscription for his poems, and, marvellous as it may seem, that was responded to. As the contributions came in they were, with slow regularity, expended upon a delightful potation called "Twopenny"—hot "Twopenny." Samuel Boyse had a commission given to him by a publisher, to translate Fénélon "On the Existence of the Deity," and he celebrated that event by immediately marrying. There was no help whatever for Samuel Boyse, and at last, when he had gone through every possible phase of beggary and misery, he died.

Do you suppose that there are no Samuel Boyses nowadays? Pardon me for insisting that there are. I will mention one

instance which it is impossible can wound anyone now, an instance of a man who has been for some years past dead, and who I believe was known, or known of, by some of my friends on this platform. He was a man who came up from one of the Universities with some amount of knowledge, for he said he had taken a First, although it must be confessed that his name never could be found in the lists. This man had the highest ambition to excel in literature, yet all that he managed to make was 35s. a week from the editor of a weekly paper, to keep himself in board and lodging. Well, if this man had had the slightest power of helping himself, there is no doubt that he might have risen to better things ; but he was in a much worse position than Boyse, for there was no interest taken in him by the aristocracy, and no curiosity felt about his poems. He was left to his unaided efforts. His unaided efforts plunged him lower and lower in the tide of things, till at last, at the office where he got his only salary, a

meerschau pipe was missed by the editor. There was some mystery about it for a little while, when there came a letter from the contributor, saying that the Rubicon was now crossed, and that he wished to resign his position on the paper ; he enclosed a ticket from a pawnbroker. After this unfortunate incident, he sank lower and lower, till he hung all day about the British Museum. At last he became a super at a theatre, and then he faded out altogether. Now, those two persons, whom I take as types, belong to the unhelpable class, with which we can do nothing. We acknowledge its existence, that it may not be thrown in our faces ; but we say at once that for it no society, no organization, can do anything.

What, then, of the helpable author ? The helpable author is not the fashionable novelist, the fashionable essayist, the successful man who has many other strings to his bow, who has a salary here, who has private means there. No ! The person whom we wish, if possible, to do some-

thing to help is the half-successful writer, the person who has a right to exist, and who yet cannot force himself, or herself, strongly upon the public. And there are two classes of the helpable to whom I would specially draw attention. One of those consists of women.

Here again I speak not of the leaders of the profession but of the rank and file, not of the George Eliots and Elizabeth Barretts, but of the smaller, yet legitimately successful, lady-writers. My own impression is that most ladies of this class claim rather less than more of what they have a right to ; they have their small circle of readers, a circle for whom they prepare innocent and delightful recreation. They have a right to be protected for the sake of these readers, as well as for their own sake. They have a right to demand that there should be somebody, some society, ready to see that they do not fall into traps, that they do not become the prey of sharpers, and, in short, to protect their legitimate interests.



And there is, again, another class of the helpable ; that is the beginner, the new man of genius. I know nothing that strikes one more in observing literary life than the fact that the new man, the man who comes forward with a book for the first time, unless he is exceedingly lucky, makes a mistake. He forms a disadvantageous bargain, he does something or other which cripples him at the outset, and this he has to wipe out and forget before he can make a proper start. The beginner, therefore, forms another class whom we desire, by this Society, to have the privilege of protecting and helping.

Now, in judging this matter practically, we have desired to see what has been done in countries more literary than our own ; for it is somewhat to our shame that not only France—we might perhaps be content to be surpassed easily by France—but Germany, and, I believe, even Spain, if not other countries, have made steps in organization for protecting authors such

as we have not thought of. It is about one hundred and twenty years since Ralph wrote his little volume, "The Case of Authors"; and the lamentations in that little book might almost, word for word, be repeated now. All Ralph's appeals to authors to organize, to unite, have passed for one hundred and twenty years without producing any sort of effect. Now, for the first time, we are attempting in a very small way to begin that work of organization.

And now, if you will permit me to do so, I should like to read you a brief summary, or *précis*, which we have made of the laws of the great French Society. The French Association of Men and Women of Letters, entitled the *Société des Gens de Lettres*, was founded in 1837, and will celebrate its jubilee in December next. The objects of this *Société*, as laid down in its statutes, are, first, to defend the rights and interests of its members; second, to ensure to people of letters the advantages which are due to them as producers

and holders of intellectual property; third, to introduce all desirable improvements into the conditions of literary work ; and, fourth, to regulate and divide among the members any such profits as may accrue to the Société. The Société is at liberty to encourage and protect any institutions that may appear to its management to be of a nature to increase the resources and usefulness of the Société. It may organize conferences, lectures, and dramatic representations, but it is strictly prohibited from entering into any commercial speculation. In case of any dispute between members, its Council may be considered as a tribunal. Any man of letters who wishes to become a member of the Société des Gens de Lettres must send in a written request to the Council, and this request must be supported by two members of the Société. At the next meeting of the Council, the candidate is balloted for. Foreigners resident in France are eligible for election, but can never take part in the administration

of the Société. Candidates for membership must produce copies of at least two printed volumes in octavo of their own production. If elected, they pay an entrance fee of forty francs, and an annual sum of twelve francs, or else a life-membership of two hundred francs. Those who have not yet published enough to become eligible for full membership may be elected associates. After three years, if the associate has not succeeded in gaining full membership, his connection with the Société lapses. Each full member has the right of voting and speaking at the general meetings, and of presenting himself as a candidate for election to the Council. He is bound to present to the library of the Société a copy of every book that he publishes ; if he writes under a pseudonym, it is his duty to make his identity confidentially known to the Council. At the request of any member, the Société will instruct an agent to make the best possible agreement with a publisher, a printer, or the editor of a journal. The

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Société has a general form, upon which the agreement with a publisher should be based, and, unless a special stipulation in a contrary sense has previously been made in writing, it is understood that this general form is to be used. The terms of this form are as follows : First, the concession of a book to any publisher is made for only one edition, or for the passage through one single journal, even when that same publisher issues several journals ; secondly, the author resumes the complete disposition of his work, if it be in a book form, when the number of copies agreed upon for the first edition is exhausted, or, if it be issued in periodical form, when the periodical has been supplied to the subscribers. I need not call your attention to the fact how very important that is. The Société is particularly active in protecting its members from infringement of copyright, and is provided with agents whose business it is to report to the Council any such acts on the part of provincial editors or managers. Its

members are encouraged to state on their title-pages that all journals which have not made special terms with the Société are "forbidden to reproduce the contents of this work." The Société, on the other hand, increases the honorarium which authors receive for periodical work by making terms with syndicates of newspapers. The object of the Société in all questions of dispute is to prevent litigation, and bring about, if possible, an amicable compromise. It is not necessary to go into the details of the administration of the French Société. That it has been successful from a money point of view may be gathered from the fact that it has been found possible to lay aside a sum sufficiently large to enable a pension to be paid to each member who has passed the age of sixty, and who has been connected with the Société for twenty years. In many respects it performs the functions of our own admirable Royal Literary Fund.

I may add that the Société has other functions in its mode of discipline and

ejection, and I would call your attention for a moment to a fact, which no doubt many of you remember, that a year or two ago, when a very scandalous and libellous novel was directed by a certain personage in Paris against an eminent lady, this novel was going through a great many editions, and the advantage accruing to the authoress was so large that she snapped her fingers at the expense of respectability, when a perfectly overwhelming snub was given to her by her rejection from the Société des Gens de Lettres. There could hardly be, in a small way, a greater proof of its efficiency.

It is, then, ladies and gentlemen, to a Society framed on this basis that we are asking the benefit of your testimony this day. We shall be most thankful to receive from anyone present any idea in connection with it. Our great anxiety is to do as much good as we possibly can to the less fortunate, but thoroughly deserving members of that profession in which we are all engaged, and any assistance

that you can give us in drawing up our rules, or giving us the benefit of your opinion, will be most truly welcomed as spreading the usefulness of this Society.



# DRAMATIC RIGHTS AND PROPERTY.

SIR FRANCIS ADAMS.

JOHN HOLLINGSHEAD.

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THE Third Conference of the Society was held on 16th March, at Willis's Rooms, under the presidency of SIR FRANCIS O. ADAMS, K.C.M.G., C.B. The Chairman opened the proceedings with the following observations :—

Ladies and Gentlemen,— In the first place, I am sorry to inform you that at the last moment I have heard that our president, Sir Frederick Pollock, has not been able to come here to-day, and that Mr. Herman Merivale, from whom we expected much, is ill, so that he cannot be present either.

Now, before I proceed to the few remarks which I propose to make on this occasion, I would beg to offer one word of personal explanation. I felt very great

hesitation in taking the chair to-day. I had had no personal experience of anything of the sort, and, coming after such distinguished men as Lord Lytton and Sir Frederick Pollock, you may imagine what I felt. I certainly have written a book, or else I should not belong to the Society ; but I have never written a play, either a good one or a bad one, and, as far as acting is concerned, the only thing I can remember to have done in that way, was when I was a boy at school. That I look back upon with some sort of pleasurable emotion, for I was always chosen to take the ladies' parts. But having been lately elected a vice-president of your Society, and my friend, Mr. John Hollingshead, having also pressed me, I agreed to take the chair, and all I can beg of you is to pardon any deficiencies which I believe are always attendant on first appearances upon any stage.

Well, ladies and gentlemen, the subject of our conference is, "Dramatic Rights and Property," and we are to have the

very good fortune of hearing an address from Mr. John Hollingshead, than whom, I need hardly say, upon this branch of literary property, no one can be more competent. I think that all of us here present will agree that dramatic property is a species of private rights, concerning which we should all be particularly interested in seeing that every protection is given that is possible. Who of us here present has not obtained great enjoyment from the drama? Such enjoyment is, indeed, the privilege of all. No one who cares to reap profit from it need be excluded therefrom. We are all, then, interested in the drama. The drama itself has existed in all times, and in all climes. It was flourishing in classical Rome and Athens. We have had our own immortal Shakespeare, and, not to go further, one can mention the names of Schiller and Goethe in Germany, and Molière in France. It is, in fact, a thing of all times—of yesterday, of to-day, of to-morrow—and will continue, I believe, as long as this

earth exists. Surely, then, ladies and gentlemen, the author whose special aptitude is dramatic literature, and the theatrical manager, who labours so hard, and risks so much, in order to give effect to his author's ideas, and thereby to provide intellectual recreation to the public, and to all sorts and conditions of men—surely both of these deserve, and ought to have, every possible protection in the rights of the property created by them.

Ladies and gentlemen, you all know, either personally or by reputation, Mr. John Hollingshead, and therefore my task in introducing him to you this afternoon is a very easy one. But I must be permitted, perhaps, to say that by his untiring energy, by his undoubted talents, by the marvellous capacity which he has shown in catering to the public taste for many and many a year, he has provided recreation and intellectual enjoyment for a countless number of delighted audiences.

Before calling upon him, ladies and gentlemen, I venture, without at all

desiring to intrude upon the scope of his observations, to draw your attention to one small point in connection with the international view of the whole question of copyright ; in fact, to the one particular point in which I, as one of the British delegates at the International Conferences at Berne, am naturally more specially interested. It is known to you all that according to the British law, although the publication of an unauthorized dramatic version of a novel is prohibited, that prohibition, as the law stands at present, actually does not extend to its representation upon the stage. In consequence of this anomaly in the law, the British delegates in the conference of 1885 could only give a kind of general support to the principle that it should be abolished. We stated that, in our opinion, it would be expedient to prohibit, not only the unauthorized dramatization of a novel, but also its representation on the stage. In our Report to Lord Salisbury, which was dated the 25th September, 1885, we

recommended that the right to translate, to dramatize, or abridge a work should be reserved exclusively to the author for the whole period of his copyright in that work.

Well, the International Copyright Law has been passed, but what remains to be effected is the amendment and codification of our Domestic Copyright Law ; and it is earnestly to be hoped that before long Her Majesty's Government will be able to take up that subject, and bring a Bill into parliament with reference to it alone. You are all aware of the grievous defects which that legislation—consisting of I do not know how many laws—shows at present. These were severely commented on in 1878 by the Royal Commission which sat upon the whole subject. I may just mention what those Commissioners reported ; they said, “ The form of the existing copyright is bad ; it is wholly destitute of any sort of arrangement, incomplete, often obscure ; and even where it is intelligible after long study, it is in many parts so ill-expressed that no one

who does not give such study can expect to understand it." These are not my words, but I think that they show pretty well the state in which the copyright law is now. Therefore I only hope, as I have already said, that some codification and amendment of the law will soon be presented to Parliament, and that a clause will be inserted, removing the anomaly to which I have had the honour to draw your attention.

Now, ladies and gentlemen, it only remains for me to introduce to you Mr. Hollingshead and I hope there will be a pleasant discussion upon the subject of our conference after he has delivered his address.

MR. HOLLINGSHEAD,\* who was received with loud applause, said: Sir Francis Adams, and ladies and gentlemen,—I am extremely obliged to you for your attendance here on this very inclement day,

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\* Mr. Hollingshead delivered an address which has been taken down in shorthand. It was not a written lecture.

for the simple reason that I am afraid your committee have given me a subject which is about the driest they could possibly give to me. I will not say it is as dry as the remainder biscuit after a voyage, because I am afraid it is a great deal drier. It is as dry as a ptarmigan, or a prairie-hen, and I am afraid no amount of literary cooking will make it very palatable. Therefore, if there are any ladies and gentlemen who have come here to-day under the impression that they are going to have a very amusing afternoon, I will do all I can to make it amusing, but I am afraid they will be somewhat disappointed.

Sir Francis Adams, in his address, has touched upon one of the subjects which I shall confine my attention to this afternoon. In fact, ladies and gentlemen, all I intend to bring before you this afternoon is the question of unauthorized adaptations of novels, and the very repressive restrictions that surround international copyright.

The novel in this country, and I believe in no other country, seems to be fair game



for anybody. It seems to be common property ; as much common property as a public common or a drinking fountain that is dedicated to the public. In America, in France, and in other countries it is not so. The writer of a work of fiction, if there is any dramatic value in that work of fiction, retains his property in that dramatic work, or any dramatic work that may be founded upon his novel. In this country it is so notoriously different that I would suggest to every novelist—and I have a very eminent novelist behind me—that these three or four lines of the poet, slightly altered, should be the permanent preface to every book :

“Go, little book ! from this my solitude  
 I cast thee on the waters ; wend thy ways,  
 And if, as I believe, thy plot be good,  
 The stage will grab thee before many days.”

Now, in connection with these adaptations of works of fiction, there is a very active gentleman abroad called the unauthorized adapter. Many hard words have been applied to this gentleman at

various times, and I think my late lamented friend, Mr. Charles Reade, generally applied the harshest terms to him. Occasionally he called him a skunk, and generally he called him a pirate. Now, ladies and gentlemen, I believe the word "skunk," as applied to any member of the human race—and I suppose, Mr. Chairman, you will consider the unauthorized adapter as a member of the human race. ("Doubtful.") I believe the word "skunk" is a term of endearment common amongst Texan cow-boys. Therefore we will put that term on one side. With regard to the word "pirate," that is evidently a misnomer. A pirate, ladies and gentlemen, is a man who starts on an open career of crime—avowedly a career of crime—and carries his life in his hands. I do not think the unauthorized adapter does that exactly; and, what is more, whatever he does he does under the direct sanction and authority of an Act of Parliament, which has passed both Houses of the State—both deliberative assemblies—

and been sanctioned by the constitutional Monarch for the time being. The proper term for him, perhaps, would rather be the "pet of the law," or the "privileged purloiner"; in fact, there are many terms that might be applied to him. But I think, for our purpose to-day, we will call him the legal adapter, as whatever he does is done legally, and you cannot prevent him doing it.

Now, nearly all the writers of fiction in this country, for the last fifty years, have been great sufferers by the unsatisfactory state of the copyright law, as regards the unauthorized dramatization of novels. In the first place, the late Charles Dickens was a great and peculiar sufferer. His favourite form of publication, as you know, was, the publication in monthly numbers, and this exposed him to a very peculiar form of annoyance. Some five or six months before his novel was completed, and before he had either determined upon the finish of his novel, or thought proper to disclose it to the public, the legal

adapter, as I will call him, seized upon that novel, and not only presented it upon the stage without the author's permission, but took the liberty of finishing the story in his own particular way, much, of course, to the annoyance of the author, to say nothing of the loss of profit to him. Another great sufferer was Mrs. Henry Wood, lately deceased. I have seen it stated that the dramatic profits from the adaptation of "East Lynne"—her most popular novel—have reached the enormous sum of fifty thousand pounds—not one farthing of which ever went into her pocket. Her case was considered so shameful about five-and-twenty years ago, that Lord Lyttleton, I think it was—I am speaking a great deal from memory, and I am open to correction—Lord Lyttleton tried to introduce a short Bill into one of the Houses, probably the House of Lords, to relieve her from these legal disabilities. But the Bill was not received by the Legislature of the time, on the ground that they objected very much to piece-

meal legislation, and that in a short time they would probably consider the whole question of copyright. This, ladies and gentlemen, was more than a quarter of a century ago, and, as far as I am aware, the Legislature has not found time to consider the question of copyright, nor does it seem likely to be able to find time. The only great novelist of our period, probably, who escaped these depredations was the late Mr. Thackeray, and for the very good reason that, notwithstanding the enormous merit of his works, they did not contain much of the dramatic element. Take the case of "Vanity Fair," perhaps the greatest novel in our language. I have no doubt many of the privileged purloiners have walked round that, and have left it much with the same state of feelings that my friend the burglar leaves the burglar-proof safe, though, probably, their language was more elegant when they left it than his was. The lady who writes under the name of "Ouida" has been another

sufferer, and she not only complains that her novels have been dramatized without her consent, but that they have been caricatured at the same time. She has very often been blamed for characters and incidents introduced in plays founded on her works, for which she is not responsible, and over which she has no control. Mr. Anthony Trollope was another victim. The only author of the first rank, probably, who ever succeeded in defeating the privileged purloiner was the late Mr. Charles Reade. In addition to his great genius as a writer of fiction, he had the training, not the tactics, of an Old Bailey lawyer. When his celebrated novel of "Never too Late to Mend" first appeared, the attention of the unauthorized adapters was, of course, immediately directed to it, and, to use a common expression, it was pounced upon, and put upon the stage. Fortunately for Mr. Charles Reade, he laid a trap to catch these gentlemen, for previous to the publication of his novel of "Never too Late to Mend," he had produced a drama called

"Gold" at Drury Lane Theatre, and in the novel of "Never too Late to Mend" he incorporated such large slabs of the drama of "Gold," that it was impossible for any adapter to go to the novel of "Never too Late to Mend," and to make a drama without using those slabs of the previous drama called "Gold." Consequently, in the action brought against Mr. Conquest, one of the adapters whom he selected, Mr. Conquest was cast in damages, and had to throw himself at the feet of the clever and successful author. Now, I am far from saying, ladies and gentlemen, that an adapter of a novel who takes a difficult work to deal with, like "Vanity Fair," does not put a great deal of independent labour into that adaptation before it is ready for the stage, and likely to be a success. Such an adapter, if he has the consent of the author, or comes to any reasonable terms with the author, is entitled to a certain amount of credit, and a certain amount of the profits from that adaptation. But, as the law at present

stands, a man may write practically a story or a novel which is absolutely a play, and requires no independent labour whatever to make it a play, and yet he is not protected. A case of this kind occurred within my own experience. During the time, I think from 1856 to 1868, when I was getting my living as a literary man, and writing more or less for 20 or 25 newspapers or periodicals, I was asked to write for a magazine which endeavoured to treat subjects in a popular way, although it was conducted on serious, if not on almost religious lines. The editor of that periodical, I need scarcely say, was one of the most liberal-minded men who ever sat in an editor's chair, or preached from a Scotch pulpit. My connection with that magazine, though satisfactory, I believe, to a great number of the readers, and certainly to the editor of that magazine, appeared to be not quite so satisfactory to a certain portion of the readers who lived in Scotland; and the inhabitants of a small village in Scotland not only



published a protest against the admission of what they called "worldly writers" in that periodical, but went to the extreme length of burning the periodical in the very small market-place of the village.

Naturally, on my own account, I made some inquiry about this extraordinary village in Scotland, and I found that its chief claim—in fact, its only claim—to distinction was that, counting heads—excuse me, ladies—it had the highest rate of illegitimacy of any place in the known world. A few days after that, conversing with the editor, I drew his attention to this fact, and I put this question to him. I said, "If a story were written that could be published in your magazine, and written in such a form that it would absolutely be a play, that it could be taken from that magazine and put upon the stage, without five words being taken out, or five words being put in—in fact, written solely in dialogue; and, if I could arrange to have that story placed upon the stage direct from your magazine—your

magazine being, in fact, used as the prompt-book of the theatre—what would happen?”

The editor said, “I believe what would happen would be this. The magazine would be burned at the Market Cross of Edinburgh, and the circulation of the magazine would be doubled.” The result of this was that I prepared a story on those lines. The story was duly published in the magazine, and—perhaps in a weak moment—I put a foot-note to the story, saying, “The right of dramatizing this story is reserved by the author.” This was a sort of notice to the adapters to go for it. My friend Mr. Toole—whom I am happy to see present—who had great faith in me at that time, and, I believe, has since, bought that story of me as a play with the intention of producing it in Scotland. That was the bargain. I said, “You know what the arrangement is? It must be produced either in Glasgow or in Edinburgh.”

Mr. Toole hesitated for some little time. He was busy with other things. It was

a very simple story, ladies and gentlemen ; in fact, I think, if the truth may be told, it was a little dull. But when a story is dull, we do not call it dull now ; we call it idyllic. Mr. Toole, at that time, was devoting his great artistic ability to more serious parts than he is indulging us with at present ; in fact, it was in his "Caleb Plummer" days. I believe this play was brought out while he was travelling about the country, and on one occasion, if I am rightly informed, it was put in rehearsal. At any rate, the attention of the unauthorized adapter was drawn to it. He was told there was some story by Hollingshead published in some magazine somewhere, which had been turned into a play for Mr. Toole, and might easily be turned into a play for Mr. Tomkins. The result was that the unauthorized adapter went to the original source, as the Lord Chief Justice called it, the fountain-head of the story. He exercised his legal rights, and, before Mr. Toole produced his play, the unauthorized adapter produced his,

and sold it to a gentleman who, I believe, did not pay for it. That did not matter.

Well, I was not the sort of person at that time—I am a little older now—to sit down quietly under a wrong of this kind, and I immediately commenced an agitation for the reform of the copyright laws. This was in 1873, I think. I did this not so much for my own benefit—for I assure you, ladies and gentlemen, I am not speaking about this particular story from a personal point of view, because it is a mere trifle.

It had this peculiarity about it, however, that it was written for the stage, and, as I tell you—let this point be distinctly understood—it was a play as it was published in the magazine, and it wanted nothing to make it a play to put it on the stage, but to study it from the magazine.

Therefore, it formed more material for a test case than any novel you may possibly choose, although that novel might be—nay, would be—a hundred times more meritorious. Well, this agitation for the reform

of the copyright laws began. I wrote to a great number of distinguished authors, who all very kindly replied, sympathizing with my object.

If you will allow me, I will just read one or two extracts from their letters. These were letters that were received by me at the Garrick Club in 1874.

George Eliot wrote : " I thoroughly concur in the opinion that the law of copyright in relation to the dramatization of novels ought to be changed, and I shall willingly give my adhesion to any energetic effort towards attaining that end." Anthony Trollope says : " If a dramatist has a property in the plot of his play, or a novelist in the words of his story, why should not the novelist have a similar property in his plot ? I do not think I should refuse the use of my stories to any respectable dramatist who might pay me the compliment of asking for it, but I do feel very bitter against those who endeavour to palm off as their own the work of others." Lord Lytton (the present Lord Lytton) : " I

heartily sympathize with your efforts, and shall be very willing to co-operate to obtain such an amendment of the copyright law as may prevent the unauthorized dramatization of novels." Wilkie Collins: "My 'Poor Miss Finch' has been dramatized (without asking my permission) by some obscure idiot in the country." Then, "I have been asked to dramatize it, and I have refused, because my experience tells me that the book is eminently unfit for stage purposes. What I refuse to do with my work, another man (unknown in literature) is perfectly free to do against my will, and (if he can get his rubbish played) to the prejudice of my novel and my reputation." Tom Taylor: "I quite agree with you that prior dramatization by an author ought to secure his stage property in a story from infringement by another dramatist without his permission." Charles Reade: "I consider it a heartless and wicked act to dramatize a story written by a dramatist, because you must know that he wishes to

dramatize it himself." Shirley Brooks writes to the same effect. Miss Braddon writes : "I have written twenty-four novels ; many of these have been dramatized, and a few of the dramatic versions still hold the stage. I have never received the smallest pecuniary advantage from any of these adaptations, nor does the law of copyright in any way assist me to protect what appears to be a valuable portion of my copyright, namely, the exclusive right to dramatize my own creation." Mr. Watts Phillips writes : "'Amos Clark' was founded on a novel of mine. A thief the other day informed me he had as much right to give his version of my story as I had, by the law. Nearly every one of my stories has been dramatized, captured, and conveyed to the Cave of Adullam and elsewhere. Not a farthing given to me ; only, when I took up some of my situations (situations created by me) and worked them into a piece, I was told 'They have been done before.'" Dr. Westland Marston : "I am warm in

the conviction that where a writer creates a property for himself in one branch of fiction, he should not lose it because some one else may be inclined to present its substance with a mere modification of form." William Gilbert, the novelist, Florence Marryat, Sir Charles Young, and other writers, including Palgrave Simpson, the secretary of the Dramatic Authors' Society, all agreed with the objects of that agitation. The result of this, ladies and gentlemen, was that, persistently knocking at the door of the Government, I and the gentlemen who did me the honour to work with me got at last a Royal Commission appointed. I should tell you, previous to its sitting, I took this correspondence to the late Earl Stanhope, and he said it formed such a consensus of opinion that it ought to lead to legislative action without the trouble of going through the form of a Royal Commission. However, it did not lead to that. We got a Royal Commission appointed, which was to have sat in 1875 ;



but owing to the lamented death of Lord Stanhope, it did not sit until the following year, when Lord John Manners, I think, took the presidency. After many sittings and a great deal of very valuable evidence, the report was published at the close of 1875, recommending that all novelists should be secured in the sole right of dramatizing their own creations. This was in 1876, I should say, and, as usual, it is embalmed in the pages of the Blue-book. There it is, and no action whatever has been taken upon it up to this day.

In order to get a test case and to get the opinions of a court of law on the question of this story that I mentioned of my own that appeared in this magazine, Mr. Toole and myself brought an action against the assignee of the unauthorized adaptation, Mr. Younge, who had committed no offence, however. He had bought it in good faith, but we were bound to have a case in the Law Courts, and we selected him as a defendant. The late Lord Chief Justice, Sir Alexander

Cockburn was dead against us from the first ; in fact, I rather think he gloated over the state of the law which deprived the novelist of his dramatic rights. However, he defended the law, or rather, as most judges do, he did not defend the law in open words, but he said he was there to administer the law as it stood, and not to reform the law ; somebody else must reform the law if they wanted it altered. We took it to the Court of Appeal, and our case was very ably argued by the late Sir John Karslake, but we were still defeated ; and Mr. Toole and myself paid between us something like £700 for carrying this test case through, and obtaining this information.

Well now, of course, after this indictment of the Copyright Act, as affecting the dramatization of novels, you will ask me, ladies and gentlemen, whether the novelist has no remedy. There is a remedy, but opinions differ as to what that remedy is. I believe some legal authorities think that if the novelist makes his drama and publishes his drama—he secures his copyright

in that drama. I should be very sorry to see any novelist committing his drama to print,\* publishing it, in fact, as a book, before he had had a performance of it on a public stage. That is my opinion. Of course if there are any gentlemen here with more legal experience than myself who think otherwise, we shall all be most happy to hear them, because we only want to arrive at the exact state of the law.

But there is a remedy for the novelist, and a very curious remedy it is. We will assume that the novelist writes and publishes a novel that has imbedded within it a perfect drama. His first duty will be to make a skeleton drama. He may make a thoroughly good acting drama if he likes, and then he has to get his drama performed. The question is, where? We are now, ladies and gentlemen, brought face to face with a very extraordinary institution in this country which you will

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\* This point is still doubtful ; but a recent decision seems to favour the view that the author does *not* lose his performing right by printing the play.

allow me to call The Theatre Royal, Stoke Pogis. It is a theatre entirely created by Act of Parliament, though it has not any subsidy from the State. You want to have a play performed to secure your copyright. You take it down to the Stoke Pogis Theatre, and you collect a small audience of "weary ploughmen." You stop their "plodding home," and you get them to go into this theatre with a substantial payment, chiefly made in the beer of the realm, and you get them to form a legal quorum or audience. A sort of performance is gone through; I cannot call it a performance—it is a sort of legal Mumbo-jumbo rite. These ploughmen witness this performance. The two respectable householders, who are rarely absent from any legal document in this country, then certify that a performance has been given, and the novelist then may go away perfectly satisfied that he has secured his legal rights in his play as distinct from his publishing rights in his novel. And he has done more than that.

If he should have a liberal offer from America, he then can play his play in America, secure in the knowledge that he has not lost his copyright in England, because that bogus performance at the Stoke Pogis Theatre will secure his right in England against the law that says: if a play shall be first produced in any other country except the country in which it is written—England—the copyright is lost for ever. The common law of America, ladies and gentlemen, I may tell you, is much more liberal in these matters than our own statute law; in fact, there are legal experts in this country who would rather have the rude simplicity and practical equity of our old common law, than the elaborate privilege of a very ill-drawn and unjust statute.

This is all I have to say to-day, ladies and gentlemen, about the unauthorized adaptation of novels. The other question of copyright that I want to draw your attention to is the International Copyright Conventions, under which dramas are bought, and adapted, and performed, and sold in this country.

There are two or three of these Copyright Acts. I think the first was passed in 1844, and the second in 1852; but we are not here to bother about dates—for forty or fifty years they have been in existence. Practically under those Acts we have only two conventions of much importance that we need deal with. I question whether we have more than two, but certainly only two of any importance; and that is a convention with France, and a convention with Prussia. We have no convention with Austria whatever. The result is that while Von Moser, if he likes, is protected in Berlin, Dr. Mosenthal in Vienna is left out in the cold. For all practical purposes, however, we may drop Prussia altogether, and when we are speaking of this subject we will only speak of France, and that represents everything. You go to Monsieur Sardou, for example, as some of my friends in this room have been frequently. I see one of them, Mr. Bancroft, in the corner. You give him, say, a couple of thousand pounds for the

English rights of a play that he has probably not written, or is just about to produce. I will tell you exactly what Mr. Bancroft (if he will excuse me using his name) buys for that £2,000. He buys a five years' lease of the play, and nothing more. The liberty of translating that play does not extend to more than five years. At the end of five years, for the purposes of translation, it is anybody's property, and Mr. Bancroft's special copyright expires in five years. But, in order to secure that copyright, after he has dealt with Monsieur Sardou, he has to do a variety of things. He has to find out first of all when that piece is produced in Paris, and within three months exactly, neither more nor less to the day, he has to go to a mediæval institution that has outlived its time and its functions—called Stationers' Hall—and he has to enter it there. He has to make a formal registration somewhat in these terms. He has first of all to state the name of the play—that is natural. He then has to state the

name and abode of the writer of the play. He then has to state the name and abode of the holder of the copyright of that play, and then he has to state the time and place of the first performance. If he has done all that within three months, the first stage in his international copyright is secured, but not altogether secured. If there is any informality in that registration, it becomes a serious thing. I shall show you how serious it is when I tell you that the copyright of Gounod's "Faust" was lost in this country entirely from an informality in the initial registration. After the registration Mr. Bancroft has another three months to complete his copyright, and within that three months—that is, exactly six months from the time of the production of this play—he has to have made an utterly worthless production called a literal translation of that play. An adaptation of anything—any attempt to give a literary flavour to this document—is simply fatal. One gentleman, Mr. Sutherland Edwards, thought



his adaptation of "Frou-Frou" would do to register instead of a literal translation. He found his mistake. He brought an action to maintain his rights, and the judge said to him, "No, sir; you have to deposit a literal translation. This is a play—that is not what the law requires." He was non-suited, and the copyright of "Frou-Frou" was lost in this country in consequence. Well, at the end of six months, if you have registered in the form that I have mentioned to you, and deposited the literal translation, your copyright may then be considered water-tight, and you have got the five years' lease of it. But an extraordinary thing in connection with this international copyright is this: if, instead of buying a play from Monsieur Sardou, you buy a play from Monsieur Offenbach, your copyright in the words only lasts for five years, but your copyright, and the author's copyright in the music, if all these forms are properly gone through, lasts for forty-two years. So that at the end of five years you are in this curious position

—you are the sole possessor of the sole right of performing the music, but the words have gone from you, and can become anybody else's property—(laughter);—and the position of things if reversed would be this. We will suppose, for the sake of argument, that Sir Arthur Sullivan and Mr. W. S. Gilbert have secured their French copyright in the “Mikado.” In five years Mr. Gilbert will be dead in Paris, but Sir Arthur Sullivan will live for forty-two years, or the whole of his life and seven years afterwards, as far as his copyright is concerned.

I do not think I have anything more to say, ladies and gentlemen; and I only hope, with these very dry details I have had to deal with, that I have kept you a little amused. If any gentleman or lady has anything to say, I am sure our worthy Chairman will be glad to hear it.

THE CHAIRMAN: I do not know whether Mr. Toole would favour us with some observations. I am sure we shall be very glad to hear them.

MR. TOOLE : Mr. Chairman,—Mr. Hollingshead has expressed himself so ably, that I cannot add anything.

MR. FRANK MARSHALL : Mr. Chairman, Ladies and Gentlemen,—I really am very averse to being the first to come forward after Mr. Hollingshead's able address. I feel very much as if I were one of the Reserve Forces returning thanks for the Army and Navy ; but there are one or two points in Mr. Hollingshead's address on which I should like to say a few words.

On one he touched very lightly, I think, and that is the attitude of the law towards the rights of what I may call brain-work. I do not know anything which tends to give one greater disrespect for the law—and there are many things, I regret to say, which do tend to give one such disrespect—than the utter contempt which the law has always shown, during the last two or three hundred years, for any property which is the work of a man's brain. If there is anything to which a man has a

positive right, it is to that which is the product of his own brain-labour. Our judges, if any case of this sort is brought before them, and the unfortunate author is defrauded of his right, always seem to roll the case over in their mouths very much as an epicure rolls over a glass of good wine, or a monkey a nut, with a subtle amount of pleasure ; as if it were a thing to be proud of, that the manifest rights in equity, as I think the phrase is, of an author, are eluded by some chicanery of that institution which it is their business to administer. This complaint is not limited to our time, Mr. Chairman. It dates back to the time of Shakespeare. We all know—at least, most of us know—that the incorrect condition of the text of several of the plays of Shakespeare simply arises from the fact, that he would not publish his plays, or let them be published, so long as he had any acting right in them; because he knew, directly he published his plays, any other company of players, other than his own, might act them.

I wish to say one or two words upon a point which, I think, is rather doubtful. I asked Mr. Hollingshead about it, but I have not been able to ask any legal luminary his opinion upon this question. I believe it to be the law still, that if any author publishes a play previous to its being represented, all right of representation passes away from him. Any common thief who likes—I prefer calling him a thief—may come and steal that play and act it, without giving the author of it any remuneration whatsoever. Many people will say, nobody reads plays nowadays. I think that is a very great misfortune. The dramatic authors in France have this enormous advantage, that their plays are published. They are not published in any discreditable form—in an ill-printed form; but they are published on good paper, in good type, and are read by educated people. I believe there are several managers here who will tell me that, because a play reads well, it does not follow in the least that it acts well; but I do not myself believe

that any really good play that acts well can read badly. I think it would certainly improve the literary quality of our plays ; that even, from one point of view, it would be a benefit to the managers themselves, if an author could securely print his play, and leave the manager to read it, not in that execrable invention of some ingenious person, called type-writing, but in legible print. I think the manager would then be able to form a better opinion of that play than he could when it is given to him in manuscript, or perhaps read, as badly as possible, by the author himself.

As to the right of the novelist to the dramatic copyright of his own work, I do not see that there can be anything clearer. If the President of the Royal Academy exhibits a picture, I never heard it maintained that he lost his legal right of forbidding anybody to reproduce that picture, either by engraving or photography.\* Why

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\* Mr. Marshall is mistaken on this point. When a picture is sold, if there is no agreement in writing with regard to the copyright, it lapses.

should a man who publishes a novel lose all his dramatic right at once in that work? It may be that he originally intended to write a drama; but, finding either that his drama was above the heads of the audience, or too long—which is a fault, I believe, that some dramas have in their first condition—he makes it into a novel. If he does not go through this—I can only call it this tomfoolery business, which Mr. Hollingshead has described as the Theatre Royal, Stoke Pogis—if he does not have some version of his novel acted by an incompetent company, before an incompetent audience, he loses all right whatsoever in the dramatic portion of his novel. It is a very curious fact that most of our great novelists are also dramatists. Take the late Charles Reade for one; take the living Wilkie Collins for another. I may here mention a very singular fact with regard to Wilkie Collins that has come under my own observation. He wrote a book called the “New Magdalen”—that was dramatized by him. He did not go

through the Stoke Pogis business, and the consequence was, although the play of the "New Magdalen" was acted, although it was written by him, and although it was produced under his supervision, both he and the manageress who produced it lost all rights in it; and anybody may play that dramatic version of the "New Magdalen" without paying Mr. Wilkie Collins, much less the manageress who produced it, a single farthing of money.

I must say that I think these matters are matters which those who wish to see the law of England respected should take a little to heart. I do not see why the law should surround the pheasant and the partridge, to say nothing of the humble turnip, with a fence of legal protection, and yet that it should leave a man's brain-work utterly unprotected, the prey of every unscrupulous robber who likes to come and steal it, and to palm it off as his own.

THE CHAIRMAN: Is there anyone else who wishes to address the meeting? Then, ladies and gentlemen, it remains



for me to ask you to pass a vote of thanks to Mr. John Hollingshead for the exceedingly interesting address that you have heard from him.

This motion was then put to the meeting in the usual way, and carried unanimously.

MR. HOLLINGSHEAD: Mr. Chairman, Ladies and Gentlemen,—I am extremely obliged to you for the vote of thanks, and I hope that what I have said to-day will induce you to help in agitating for a reform of the laws, which I think need reforming as soon as possible.

The outcome of what I have said is somewhat this. I should put these propositions—that novels, first of all, should be protected from unauthorized adaptation; then that Stationers' Hall should be abolished. I will tell you the reason why. It nourishes illusions. A gentleman has an idea of a good title for a play or a book. He sees "Entered at Stationers' Hall," and he goes and enters it there. The clerks there will enter anything; all they care about is to take five shillings. They can

give you no information, probably have no information, whether you are too early to register, or too late. They do not tell you; they take the five shillings, and they enter it. Now, the law of this country does not recognise abstract titles. You may have the best idea in the world of a title for a book, or a play, or even for a fish sauce, but in order to secure a copyright in it you must not only register the title, but you must act upon the title. That is to say, you must produce your play, or your novel, or you must fabricate your fish sauce. The result is, all these entries at Stationers' Hall are utterly useless, and, for the purpose of registration, I have no doubt Parkins and Gotto would do it for you at one-third the money, and equally effectively.

My other propositions are, that the registration ought to be compulsory, and a one shilling fee would be quite sufficient. I should say a department of the Board of Trade would be the best registry office. All the books should be open to inspec-

tion at a small charge. The abolition of the literal translation in connection with international copyright ought to take place at once. The five years' lease that I spoke about for adaptations ought certainly to be extended to twenty years at least, if not to the full term of forty-two years, or the life of the author, and seven years afterwards. I think you will agree with me, ladies and gentlemen, that that is not too much to ask.

I am exceedingly obliged to you for the attention with which you have listened to my *viva voce* remarks, and though I may have appeared to you to have dealt a little flippantly with the subject, I still feel quite as earnestly on these questions, I dare say, as most of you ; for if I am convinced of anything I am convinced of this, that bad laws make bad citizens, and bad citizens make a bad country.

REV. C. H. MIDDLETON-WAKE, one of the members of the Council of the Society, proposed a vote of thanks to Sir Francis Adams for having presided at this meeting

of the Conference, and referred to the good service which Sir Francis had rendered to the cause of Copyright during the recent proceedings of the International Copyright Conference at Berne.

MR. HOLLINGSHEAD seconded the motion, which REV. C. H. MIDDLETON-WAKE put in the usual way, and declared to be carried unanimously.

THE CHAIRMAN : I am sure I am very much obliged to you all for the kind way in which you have received this vote of thanks. I did what the Americans call my "level best" at those Conferences, and I think it will be found that the Convention we signed will remove much that has hitherto been objectionable in the matter of International Copyright. I think that that Convention is the commencement of a new era. I can only again express a hope that our Government will take the matter up, and that in a short time we shall have an amended, codified, domestic copyright law. I thank you all very much once more.

## APPENDIX I.

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### *Remarks by Andrew W. Tuer.*

IT is, I understand, to the black (and whitey-brown) sheep of our calling that the attentions of the Authors' Society are principally directed, and if—though its efforts to turn rogues into honest men may fail—it succeeds in placing the relations between authors and publishers on a sounder and more business-like footing, the white sheep will certainly rejoice.

An agreement between author and publisher should be short, and so simply drawn, that it cannot be misunderstood.

Of all methods of publishing, the half-profit system is, I think, the most open to abuse and the most unsatisfactory.

The plan of a royalty, both in principle and practice, is undoubtedly the best.

As the prime cost of a book varies independently of the selling price, a fixed royalty is impossible. One book selling at half-a-guinea may cost less to produce than another selling at six shillings, and the former will naturally bear the heavier royalty. The conditions under which a royalty is paid are necessarily elastic. The royalty system, pure and simple, means that the publisher takes the whole risk, bears every expense, and pays the author a certain sum on every copy sold. An agreement on this basis can obviously only be made for a book by a popular author, or for one that the publisher feels sure will have a remunerative sale.

In regard to a book by an unknown writer, which the publisher thinks may *possibly* do fairly well, he can bargain, as a set-off against his risk, and in order to have a better chance of getting back his costs out of pocket, that he shall not pay any royalty until a certain number of copies have been sold. Supposing that a MS. be offered of so feeble or uninteresting a

nature that failure is almost a foregone conclusion, then there may reasonably be a stipulation for the payment of a sum of money towards covering the cost of production.

“The cost of production” is a very elastic term. To begin with, I affirm that there is an obligation on a publisher that he should treat a MS. as if it were his own property, and do the best he can with it, for the client is undoubtedly entitled to the benefit of the publisher’s experience.

Mr. Besant has told me a perfectly true story of an impulsive young poet paying a shark of a publisher some hundreds of pounds for an edition of some thousands of copies of his verses, not fifty of which were ultimately disposed of, and most of those went to friends. For the sake of illustration let it be supposed that the MS. of that golden youth’s poems is purchased outright. How would the publisher go to work? He would have the type set up and would instruct his printer to work off a small edition, say a hundred copies. *The publisher would feel his way.* Should the

poems sell freely, reprints from standing type would be struck off as required, and the book would not be allowed to go out of print until the public had ceased to ask for it. Produced in this way, the publisher's "cost of production" of a book that—as in the case cited—turns out to be a dead failure amounts but to a small sum.

The royalty system is not only, I think, the fairest but the one in which cheating is the most difficult. The necessity for producing vouchers for the cost of paper, printing, binding, and advertising ceases, the one loop-hole for dishonesty being that the publisher, in collusion with his printer, may dispose of a greater number of copies than he declares. An agreement could perhaps be so worded as to make a false declaration on the part of printer or publisher a criminal offence.

As to a book—of which this volume is an example—produced by a publisher who is his own printer, the double safeguard is of course impossible, and the author must



perforce be content with the declaration of the publisher.

The only *absolute* safeguard to the author is the separate signing and numbering of every copy of his book. A client had a clause to this effect inserted in an agreement entered into with my firm, but when in due time the edition—a good load for one of Pickford's vans—came to be surveyed, he was utterly appalled at the magnitude of his self-imposed task, and promptly made default.

Twenty-five per cent. is generally understood to be the trade allowance on books, but, if this were literally true, discount booksellers who take off three pence in the shilling could not live. A bookseller in a large way of business is tempted to give a good order to a publisher by the offer of special terms, which mean extra discount, and very often extra credit, with perhaps a renewal of bills when they arrive at maturity. If special terms are not offered, booksellers will often refuse to stock, and will tell the travellers that they can do

better with so-and-so's books, so that publishers compete with each other not only in the nature of their wares but in the prices at which they sell them.

Between seller and publisher come the wholesale book houses, who supply booksellers only, and they must have their profit. There is plenty of cutting in the "Row," and transactions are not unknown at five per cent. profit.

The fact is, that when full allowance is made for the usual publishing commission of ten per cent., and for discounts, loss of interest on long credits, and renewals of bills, as well as for bad debts, the publisher receives, when his accounts come to be made up, a mere fraction over one-half the face value of a book; that is, for a book published at a shilling he eventually gets about sixpence.

That there are publishers who are also booksellers does not affect the question. The greater portion of an edition of a book *must* pass through the hands of the trade, and the extra profits obtained by

the publisher-bookseller on copies sold at full price he is legitimately entitled to, otherwise he might as well shut up his shop. Sales to the public by publishers who are not booksellers are so few and far between as to be practically not worth considering.

In regard to advertising, the author may control it himself, or his publisher may see to it for him. The cost of setting up an advertisement on a slip of a size that could go into an ordinary envelope, and printing two hundred and fifty or five hundred copies, is but a few shillings. If the author undertake the advertising, he will use these slips on his rounds to the newspaper offices and for judiciously distributing as occasion may offer. If his publisher undertake it there should be a clause in the agreement to the effect that no advertisements are to be issued except with the author's written authority, and the names of the newspapers and magazines selected, and the total amount to be expended should be mentioned. In

place of vouchers—often difficult to produce or identify where many books are advertised together—the publisher should agree to provide a list of dates when the advertisements appeared.

A final word as to the amusing puffs one sometimes sees as to the “liberality” or “generosity” of publishers. The true motive of extra payment or double fees from a publisher to a writer whose MS. he has purchased, and whose book has proved a phenomenal success, is selfishness pure and simple. The publisher wants the successful author's next book, and he takes the best means to get it. He knows that a second and unexpected cheque on his bankers, to a man to whom *κῦδος* is something, but bread and butter usually a great deal more, is the best paying investment he can make. Would that the opportunity came oftener!

*The Leadenhall Press, E.C.*

## APPENDIX II.

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*Letter by George M. Smith.*

*To the Editor of The Times.*

SIR,—The statements bearing upon the relations of authors and publishers, made at the two recent conferences arranged by The Incorporated Society of Authors, the leading articles in *The Times*, and other important journals, and the letters which have been written by Mr. John Murray, Messrs. Longmans, and other publishers, indicate that the subjects discussed at the conferences have excited a considerable amount of public attention; and some

at least of these statements are of such a character that they should not be allowed to remain unanswered.

An accusation was deliberately made by Mr. Walter Besant, at the first meeting, and repeated by Sir Frederick Pollock at the second meeting, that it is the custom of publishers to render fraudulent accounts to authors. It is true that various speakers, including Lord Lytton, in the chair, Mr. Walter Besant, and Sir Frederick Pollock, disclaimed antagonism to publishers. But no disclaimer of this kind can be weighed for a moment against a direct accusation of dishonest dealing, levelled, not against particular individuals or transactions, but against publishers and their transactions generally. It cannot be doubted that the accusation goes this length, for Mr. Besant expressly speaks of these nefarious proceedings as "a custom," and Sir Frederick Pollock generalizes in like fashion.

This accusation, in so far as it affects the large majority of publishers, is, I venture to say, absolutely unfounded. That there

are publishers who are guilty of dishonest practices must be admitted. It would indeed be impossible to find any considerable body of men, in any calling of life, to whom the same observation might not with equal force be applied ; but it is unusual, and seems unfair, to raise general charges upon the strength of exceptional cases of misconduct.

That the imputation has been made rashly and ignorantly is sufficiently obvious when it is considered in the light of the remedy suggested. It is asserted that publishers make "secret profits" on the cost of producing a book and are enabled to do so by the circumstances of their rendering accounts, the items of which are not properly vouched for, and it is in substances contended that if publishers were to be called upon to produce vouchers, authors would be protected. Both Mr. Besant and Sir Frederick Pollock seem to be unaware of the incontrovertible fact that no publisher could refuse\* to produce

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\* See p. 177.

vouchers for the items of an account furnished to an author. The publisher must either be the partner or the agent of the author, and in either character is bound to verify his accounts. If he were to refuse to do so, an author would only have to apply to his solicitor, who would obtain satisfaction for him by a very simple legal process. As to Lord Lytton's statement, that the author who seeks legal advice will find that the subject is "so entirely outside the ordinary experience of solicitors that no honest solicitor would venture to give him advice respecting the management of his contracts, or the making up of publishers' accounts," it is really too astounding, and may be left to speak for itself.

Messrs. Longmans appear to have been so much impressed with Mr. Besant's remarks at the first conference, as to have hastened, in the interval between the first and second meetings, to assure him that they would in future adopt the practice of giving vouchers for accounts ; and this announcement was received with cheers at



the meeting, and has since been referred to in the Press as an important step in the direction of curing a serious evil. Mr. John Murray and Messrs. Macmillan and Co., on the other hand, in their letters to *The Times* have confined themselves to pointing out that their books, accounts and vouchers have always been open to authors.

The true meaning of Messrs. Longman's letter cannot be very clearly gathered from Sir Frederick Pollock's reference to it, but the accepted interpretation would appear to be that it is their intention in future to accompany accounts rendered to authors with vouchers for each item. If that be their intention, their offer certainly has the appearance of being a step in advance of the present system ; but as a means of permanently removing the atmosphere of suspicion which, however unjustly, appears to surround publishers' accounts, the plan seems to me to be illusory. It may be pointed out, to begin with, that a voucher gives no information beyond what

is, or may easily be, contained in the account. It is simply evidence. Moreover, the mere fact of a publisher seeming to think it necessary to satisfy an author that he is not robbing him, would be calculated to occasion a feeling of discomfort on both sides. And much as it may surprise some of the gentlemen who, during this controversy, have expressed their opinions of the relations between authors and publishers, it is nevertheless a fact that there are many authors who would feel hurt at a course of proceeding which would seem to imply a want of confidence on their part, and would request their publishers not to continue to trouble them with vouchers. It is my belief that this custom, which must be more or less cumbrous and troublesome, would, even if at first generally adopted, gradually fall into disuse, and vouchers would only be supplied when asked for--which is exactly the present condition of affairs.

While holding the opinion that any general alteration is unnecessary, and that

the only alteration that has been proposed is illusory, I regard it as intolerable that publishers should be subjected to these charges and insinuations ; and it seems to me that the choice of every publisher who agrees in that view really lies between two alternatives. He must either relinquish all business involving the rendering to authors of accounts containing items of expenditure, which would obviously be prejudicial to the interests of both authors and publishers, as excluding a mode of publication which is admitted to be the most appropriate in a large number of cases, or he must devise some mode of making up and rendering his accounts which will, once for all, remove any possibility of doubt or question ; and this I believe to be practicable, as I will endeavour to show.

The system indicated in the appended *pro formâ* account should not only give sufficient security to satisfy any author against fraud on the part of his publisher, but would also insure to him certain

advantages derived from a system of cash payments. The particular statement which will be found in this account as to the payment of each item, with the exception of such small matters as cannot be particularized or separately paid, is absolutely distinct and unqualified. It is impossible to conceive of any publisher venturing to render an untrue account in such a form, and I need not enlarge on the serious consequences to which he would render himself liable by doing so. If any author has a doubt on this point, his solicitor will, I think, *pace* Lord Lytton, have no difficulty in solving it.

The subjoined *pro formâ* account is applicable to a book published on the half profit system, but accounts of books published on commission might, of course, be kept on a similar principle.

The attack made upon the publisher does not, however, stop short at accusations of fraudulent account-keeping. He is also assailed, in regard to the purchase of copyrights and the payment of royalties,

for want of fairness ; and, again, for not conscientiously seeking to advance the interests of the author in those cases in which he acts as an agent and has not a proprietary interest in a book ; or, to use Mr. Besant's words, he does not "push commission books so vigorously as those which are his own by right of purchase." I will say a few words in answer to each of these charges.

As to fairness. In the first place there is plenty of competition among publishers, which would in ordinary business transactions, almost of itself, be a sufficient answer. An author is no more obliged to sell a book at any particular price than a publisher to purchase it at the author's own estimate of its monetary value ; and in dealing with a commodity which has a purely speculative value there must necessarily be frequent differences of opinion as to the price which ought to be paid for it. Indeed the business of a publisher is of necessity speculative in the highest degree, for it is admitted that nothing is

more difficult than to foresee the reception which a book will meet with ; and it is notorious that many of the most successful books have been offered to several publishers before being ultimately accepted. If a publisher could calculate with anything like certainty on every book yielding him even the most moderate profit, his business would no doubt be lucrative. But, in fact, a large number of every publisher's speculations involve a loss ; and on striking the average of his gains and losses, an excessive profit is most certainly not left to him.

I affirm, without hesitation, that the average profits of publishers do not represent more than a moderate return upon the capital employed in their business, and that this return is only to be earned by great labour and continuous risk.

To the suggestion of Mr. Besant that an author, before accepting an offer from a publisher, would do well to consult the Society of Authors, there can be no possible objection from a publisher's point

of view, subject, of course, to the observation that no publisher would be bound, or, as I believe, influenced by the opinion of the society.

The observations which I have made apply alike to the purchases of copyrights and to the payment of royalties; but, with regard to the latter, Mr. Besant founds a grievance upon an almost impossible condition of affairs. He supposes that 10,000 copies of a book have been printed, and every copy sold, and makes a calculation of the relative profit of the author and publisher upon that hypothesis. A publisher would indeed be a bold man who printed 10,000 copies of an ordinary book; and upon an extraordinary book, of which he could reckon with certainty upon selling that number, he would assuredly have to pay the author, in one shape or other, a much larger sum than Mr. Besant's illustration supposes. There are also some errors of facts and figures in Mr. Besant's calculations of profit, but it is hardly worth while to discuss them here.

So much for the charge of unfairness. In regard to the imputation that a publisher does not "push" commission books, it shows an ignorance of the internal arrangements of a publisher's warehouse, which is very naturally to be expected from those who make the charge. It is practically impossible for a publisher to deal in one manner with one book, and in another manner with another book. During my experience of more than 40 years as a publisher, I have frequently heard the expression "push" in connexion with the sale of a particular book, but I have failed to understand it in that sense. I doubt if those who use it, in the sense in which it is used by Mr. Besant, could define its meaning. What a publisher can do to promote the sale of a particular book, in addition to what he does for all his publications alike, must be done by a liberal expenditure of money for advertising, and so forth ; and it need hardly be said that a publisher would be quite as willing to expend an author's money as his own, if the author desired it.



With regard, however, to the publication of books on commission, it is, I think, open to doubt whether this mode of publishing does not produce a large number of books which, for the sake of the authors and the public, had better not be printed at all. It is my belief that this, or some cognate system of publishing involving no risk to the publisher, has produced the larger number of disappointed authors, and is in a great measure responsible for the outcry that has from time to time been raised against publishers. By these remarks I must not, however, be understood to contend that, for various special reasons, the publication of books of a valuable or popular kind on commission may not sometimes be desirable.

On the whole I believe that where it is not important to an author to receive an immediate pecuniary return for his work, the half-profit system yields the greatest certainty of a fair division of profit between the author and the publisher, of course provided that the publisher's accounts

are faithfully made up and rendered. This mode of publication is especially appropriate for medical, legal, and other works requiring frequent revision by the author. The appropriation of one-half of the profits to the publisher may at first sight appear unduly favourable to him ; and undoubtedly in the case of a book certain to have a large and rapid sale, they are too favourable ; but in ordinary circumstances such is not really the case. In the first place the publisher takes upon himself the risk of loss, which, as I have already pointed out, is very far from being nominal. In the second place, he supplies all the capital for the venture, and manages all the business details of the publication. Finally, it must always be remembered that, while the payments to the author represent clear profit, the publisher's share of the profit has to bear a certain proportion of the general expense of conducting his business, and must therefore be subject to a very considerable deduction. These few last words must equally apply to the

apparent profits of publishers, on every transaction, and from whatever system of publication they may be derived.

I am, Sir,

Your obedient Servant,

GEORGE M. SMITH.

15, Waterloo Place,

*March 21, 1887.*

PRO FORMÂ ACCOUNT OF A BOOK PUBLISHED AT THE  
PRICE OF 14s.

					Dr.		
		£	s.	d.	£	s.	d.
1885.	Amount of Messrs. A. B. & Co.'s account for printing 1,500 copies ...	106	9	4			
	Less discount allowed for cash payment, 8 per cent. ...		8	10	4		
	Cash paid to Messrs. A. B. & Co. on Jan. 12, 1886, by cheque on Messrs. — & Co. ...				97	19	0
	Amount of Messrs. C. D. & Co.'s account for paper ...	60	15	9			
	Less discount allowed for cash payment, 5 per cent. ...		3	0	9		
	Cash paid Messrs. C. D. & Co. on Aug 10, 1885, by cheque on Messrs. — & Co. ...				57	15	0
	Amount of Messrs. E. F. & Co.'s account for binding 1,350 copies ...	43	4	0			
	Less discount allowed for cash payment, 6 per cent. ...		2	11	10		
	Cash paid Messrs. E. F. & Co. on Feb. 1, 1886, by cheque on Messrs. — & Co. ...				40	12	2
	Amount paid for advertisements as per accompanying list, showing the actual cost of each advertisement (less discount where allowed) with the date of its appearance ...				65	4	6
	Postages, printing trade circulars, carriage of copies to author and friends, proportion of paper and printing catalogues, and newspapers containing reviews, &c. ...				3	5	10
					264	16	6
	Allowances to cover extra discounts allowed to agents, wholesale book-sellers and exporters, 5 per cent. on amount of sales ...	30	1	0			
	Interest on cash advanced, 5 per cent. ...	13	4	10			
					43	5	10
1886.					308	2	4
June 30.	Balance, half to author, carried forward ...	131	9	4			
	Balance, half to publisher ...	131	9	4			
					262	18	8
					571	1	0
1886.							
Oct. 1.	To cash, per cheque ...				131	9	4

						Cr.
1885.						
Nov. 10.	Number of copies printed ...	1,500				
	Presented—					
	To public libraries ...	5				
	To author and friends ...	6				
1886.	To editors and others ...	39				
June 30.	On hand ... ..	185	237			
	Leaving sold as under ...	1,265				
	(25 copies as 24)					
	At trade sale 200 as 192 at 9s. 4d.		89 12 0			
	To trade, &c. 1,065 as 1,023 at 10s.		511 10 0			
		<u>1,265</u>	<u>601 2 0</u>			
	Less allowance to cover bad debts and sundries, 5 per cent. ... ..		30 1 0			
			<u>571 1 0</u>			

1886.					<u>297</u>
July 1.	By half balance, brought forward	...	...	£131	9 4
					<u>L</u>

## NOTE.

THE foregoing is an account rendered by an honourable House. I now give the same account as it would be rendered by a fraudulent firm, one which secretly adds 10 per cent. on all the expenses and pockets all the discounts. There are Houses which add more than 10 per cent.

						ACTUAL.			CHARGED.		
						£	s.	d.	£	s.	d.
Printing ...	...	...	106	9	4						
Less discount	...	...	8	10	4						
			<hr/>			97	19	0	117	2	3
Paper ...	...	...	60	15	9						
Less discount	...	...	3	0	9						
			<hr/>			57	15	0	66	17	3
Binding ...	...	...	43	4	0						
Less discount	...	...	2	11	10						
			<hr/>			40	12	2	47	10	4
Advertising	...	...				65	4	6	71	14	11
Postage	...	...				3	5	10	3	12	5
* Allowances, &c.											
* Interest on cash advanced						43	5	10	43	5	10
						<hr/>			<hr/>		
						£305	2	4	£350	3	0
						<hr/>			<hr/>		

\* I am not at all sure about these charges, especially the latter, see p. 180.

						£ s. d.		
Proceeds of book	...	...	...	...	...	571	1	0
Alleged cost of production	...	...	...	...	...	350	3	0
						<hr/>		
Profit	...	...	...	...	...	£220	18	0
						<hr/>		

Half to author, £110 9 0

Half to publisher, 110 9 0, together with the secret profits.

So that by the addition of 10 per cent. and the suppression of the discounts, the publisher on the "half profit" system has made by the book £152 9s. to the author's £110 9s. That is to say the author has made only two-thirds of what the publisher has made. *And observe that this is no fancy sketch.*

W. B.

## APPENDIX III.

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### *Remarks by Geo. Haven Putnam.*

I had read with much interest the reports of the Addresses made at the Authors' Conference, and was very ready to meet the courteous suggestion of my friend, Mr. Besant, that I should add to this pamphlet a word as to the publishing methods in vogue in the United States.

The relations of authors with their publishers, and the effective management of literary property, are certainly matters of no little importance, and it is assuredly most desirable and proper that authors should, by putting their heads together, secure the full advantage of their joint wisdom and of their joint experience.

One difficulty which occurs to me, however, in connection with such co-operation,



is the risk of unprofitable misapprehensions on the part of certain members of the Association.

In Trades Unions of Mechanics, it is fair to assume, for purposes of contracts, that one master carpenter or one master mason is about as good as another, and is in position to demand as favourable terms for his work.

In the profession of authorship, however, the grades of "goodness" (using the term strictly in a commercial sense as standing for capacity to do remunerative work) vary enormously.

The author of the book which involves "no risk to the publisher," because ten thousand copies can be sold at once without any special effort, so far from being a normal person, fitted to form any example for average calculations is, to put it frankly, a very exceptional creature indeed ; he is always being looked for by the publisher, but he forms but a small percentage of the writers with whom the publisher comes into relations. It is natural enough that the

author of the "Children of Gibeon" should think of ten thousand copies as a proper and usual first sale for a book, but it is certainly the case that if the majority of writers should base their expectations and their publishing propositions upon any such calculations, they would incur no little disappointment and waste of time. It is also certain that if such figures as these were to be used by the Authors' Society as a "fair average" upon which to base estimates of publishing profits, and upon which to formulate claims for a readjustment of such profits, no little injustice would be done, and the main objects of the Society would not be furthered. It is, it seems to me, less possible for authors than for almost any other class of producers to "pool their issues," and to formulate any uniform claims, the purpose of the work, the quality of the work, and remunerativeness of the work, of each author being so varied.

It is, of course, however, a truism to say that each author is in any case entitled

to justice, and it is possible enough that in a number of instances fuller knowledge and joint effort may secure larger results for "authors' profits" than have heretofore been obtained.

I judge, as well from what Mr. Besant says as from my own previous knowledge, that an important cause of such difficulties as have arisen between English authors and their publishers is the want of explicit and comprehensive publishing contracts. The remedy for this difficulty must certainly rest with the authors themselves, as there is no reason why they should not insist upon securing as explicit a contract for the publishing of a book as for the building of a house, whether they are investing in the book cash capital or "only brains and time." In the States, it would certainly be a most exceptional thing for the publication of a book to be undertaken without a contract covering all the usual contingencies, the publishers considering such contract as important for their own interest (to save them from un-

necessary friction) as for the interest of their clients.

English authors should not overlook the importance of having inserted in their contracts an explicit provision concerning the disposition to be made of receipts accruing from American editions of their books. Instances have, within the past few years, been brought before the public of publishing arrangements which were so vague in their terms, that the English publishers have considered themselves justified in appropriating, without notice to the authors, amounts paid by the firms issuing the American reprints, while the authors have made public complaint of the "piratical action" of said American firms in "republishing without payment."

In the absence of any word to the contrary, the American publisher has the right to assume that the firm issuing the English edition is the authorized agent of the author, and to make his payments accordingly, leaving the question of the disposition of the amounts paid to be

settled according to the provisions of the author's original agreement.

One evidence that American authors are, as a rule, satisfied with their publishers, is the fact that it is the exception where all the works of one author, or at least all of his works of the same character, are not to be found on the catalogue of one house. To the same publishers who have issued the first book of an author are confided, with rare exceptions, his succeeding works.

In England, on the other hand, the books of many of the best authors are scattered among the lists of a number of different publishers, and there have been instances of an author's employing as many publishers as he had books. The increased difficulties in management, waste of advertising, loss of sales, and other disadvantages which are caused by such distribution of an author's works are very considerable, and the conclusion is inevitable that, rightly or wrongly, the English authors must frequently believe they have

grounds for dissatisfaction, or they would not be always endeavouring to "better their condition."

The "profit-sharing" system which seems to be responsible for a large portion of the dissatisfaction, is very little in use with American authors and publishers. The principle of such a system appears to be sound, but its equitable application is evidently a matter of no little difficulty.

The principal objections to such system are that it necessitates no little additional clerical labour in the keeping and in the rendering of accounts, and that it entails more risk of misunderstanding with the author than is incurred under any other publishing method.

Under a "profit-sharing" plan, the author, who has, as a rule, no familiarity with the details and requirements of book manufacturing, has submitted to him from half year to half year, statements purporting to show what it has cost to print first and subsequent editions of his book, and setting forth the other expenses of putting

it upon the market. He either, in the strength of his faith in the statements of his publisher, accepts as correct the figures submitted, or he possibly attempts to verify these figures by securing quotations from other printers and binders. In the latter case, he may easily mislead himself, and do injustice to his publishers by having quoted to him figures which really stand for a different and an inferior class of work—work with which his publishers would not have been willing to associate their imprint, and with which he himself would not have been satisfied. There are a great many ways in which a book can be printed, and it is of course all essential that any figures which are compared shall certainly refer to exactly the same thing. If an author decides to have his book published on the half-profit system, it will in any case usually be wiser for him to have the figures of cost submitted to him in advance, in the same manner as if he expected to assume the entire outlay, and he will then know what he has to expect.

The author may also find difficulty in understanding why it has been necessary to sell the larger portion of his edition at special rates to the distributing houses, having started with the assumption (from which even so old an author as Mr. Besant has not freed himself) that the publisher always received for his books not less than two-thirds of the retail price. In fact, I have had to do so with intelligent authors, who based their own preliminary calculation of profits on the assumption that the publishers always received, for books sold, the full retail price.

The cost of rebinding volumes which have been sent out to the dealers "on sale," and have been returned unsold and damaged, and various similar items which come up in the necessary work of selling (or of trying to sell) a book, are also puzzling, and altogether there are so many details in connection with which explanations are called for, that the publisher may easily under such an arrangement, for books which do not make a brilliant success,



expend in valuable time much more than his share of the possible "profits." It is doubtless for considerations of this kind that American publishers have, in the majority of cases, arranged to pay their authors by royalties, or to compound such royalties by the purchase outright of the copyright.

For by far the greater number of the American works which are issued at the risk and expense of the publisher, the author's compensation is paid in the shape of a royalty of ten per cent. of the retail price.

The question is occasionally raised whether the profits from these sales of any particular work do not permit a larger rate of royalty than this customary ten per cent. If I were an author, I should be inclined to take the ground that this rate, which doubtless represents an average between what is just practicable on the less successful, and what is fully earned by the more successful books, sometimes works injustice to the authors whose works sell well, for the benefit of authors the sale of

whose works is inconsiderable, although, curiously enough, it is from the latter class that such complaints as arise are most frequent. The principal outlays in getting a book upon the market are made in connection with the first five thousand, or the first ten thousand copies. When the sale has passed the point of say five thousand copies, and the book is still in steady demand, the profits on the sale of subsequent thousands are larger, and on these latter a somewhat higher rate may properly be paid. An author whose books are of such a character as to secure (without the necessity of issuing them in paper form at a mere manufacturing profit) a continued sale extending over ten thousand copies, is usually in a position to arrange for a higher than the normal rate of royalty.

If, however, the work is fiction, and it is considered desirable, for the sake of competing with the cheap reprints of foreign works (I am speaking of course here only of American conditions) to issue it in paper form, the margin of profit

becomes, as a rule, too inconsiderable to permit paying the author anything more than ten per cent., and on such volumes there often remains for the publisher, after the copyright has been paid, considerably less than ten per cent.

This rate of ten per cent. of the retail price has been arrived at as a fair average royalty, on the calculation that it represented about one-half the net profits remaining after the cost of the printing, advertising, and putting the book upon the market had been covered. As a fact, however, the ten per cent. represents less than half the net profits of a volume securing a large sale, while it represents more, and sometimes much more, than half the profits on a volume the sale of which is inconsiderable. If the royalty is paid on all copies sold, and the sale is less than one thousand copies, or for a low-priced book, or an illustrated book, less than two thousand, or two thousand five hundred, there is (for American publications) a loss instead of a profit—a loss

which is, of course, increased by the amount of any royalty paid to the author. If, therefore, more than ten per cent. should be credited on the sales of successful works (and there are cases in which such higher rate is certainly equitable) less than ten per cent. ought to be credited on the books which just pay for themselves, or which produce a deficiency. For the deficiency-producing books the authors are, in fact, properly entitled to no compensation from the publishers. Payment for work cannot be made in proportion to the extent of the public demand for it; and if the book earns nothing, the author is properly entitled to nothing for its production. A first book, therefore, which must usually be an experiment, ought not to receive copyright until enough copies (in the States, usually one thousand) have been sold to return the first cost. When a profit has been secured, it would then be in order to pay royalty also on the first one thousand.

It is also the case that ten per cent. of

the retail price represents, under American methods of trade, a larger proportion of the net price received by the publisher than is the case with an English work. The great extent of the territory which has to be reached in order to bring a book before the American public, causes the outlay for travelling salesmen, for freight, for advertising, press copies, etc., to be much heavier than in England, and results also in the distribution of much larger portions of the editions through the jobbing houses. These latter purchase their large supplies of many current books at from fifty-five to fifty per cent. off the retail prices. The discounts given to jobbing houses have in late years steadily increased, and during the season of 1886, for a larger proportion of their sales than ever before, the publishers received the lower net prices named. For books so sold the author's royalty, therefore, is twenty per cent. of the wholesale price, and is often more than half the net profit.

Under the royalty system, the author

has, in connection with books in which he has made no investment, no concern with the figures of cost of manufacturing, advertising, and distribution. He is interested only in knowing how many copies have been printed and how many sold, and on such a point he is of course entitled to just as explicit information as he would receive from his stock-broker concerning the sale of debentures.

The accounts of sales rendered by my own firm specify in detail how many copies have been printed from half-year to half-year of each volume, and what has been done with these copies. The copyright records at the desk of the copyright clerk, and the printing and binding records at the desk of the stock clerk, are always open to the inspection of authors, and give all the data required for the verification of these accounts of sales.

For books published "on commission" (that is at the author's risk and expense) the author receives in the first place, under our system, a specific estimate showing

the cost of the edition desired, printed in the style of some model submitted.

Before a contract is entered into, it is expected that the author, if beginning business with the firm, will compare this estimate with figures submitted by other houses.

If he secures lower figures elsewhere, and is satisfied that the quality of the work is the same, and that the imprint and distributing facilities of the other house are equally good for his purpose, he ought of course not to place his work with the firm first applied to. Such estimates ought in any case, however, always to include a commission for the use of the publishing imprint, and for the labour and skill required to supervise the manufacture of the books, and this commission will properly be higher in the case of some publishers than of others, there being a material difference in the value of publishing imprints, and a difference also in the manufacturing and distributing facilities possessed by the different firms.

I see no reason why, for a book published on joint account, estimates as precise should not be submitted in advance (with vouchers later for any supplementary items of expense) as for a book published entirely on author's account.

Joint profit accounts should certainly include no "hidden profits," but ought to include, as above, an openly charged commission for the use of publishing service and of bookmaking skill. It is to be borne in mind that under the usual half-profit system the author shares the profits, if any accrue, but does not agree to share the loss in the event of a deficiency.

The author's investment of labour is offset by the publisher's investment of capital, and the time and skill contributed by the latter in seeing the book through the press (to say nothing of the tact often required to keep unruly authors from re-writing the volume in proof, and thus ruining the joint account by the expense of "extra corrections") should be compensated by an openly charged commission.



An international copyright will, when finally brought about, have a good effect on the relations between publishers and authors, and also in reducing the selling prices of good books.

It is of course certain that when authors can control, for their material, the markets on both sides of the Atlantic, they will be able to secure larger returns, whether these come to them in the shape of fixed payments, or of royalties on increased sales. The publishers on their part will be in a position to pay these larger sums to authors, and basing their calculations on larger sales, will also be able to give to the public decently printed books at the lowest possible prices. All parties at interest, except a small group of "re-printers" (English and Canadian, as well as American) who now get a living out of "appropriated" literature, will, therefore, be benefitted by an international copyright.

It is perhaps not out of order here to refer to the fact that the leading publishers, English and American, are doing, and have

for years been doing, what is in their power, while waiting for an international copyright to be established, to supply its place by international arrangements, which are, with a few exceptions, respected by all reputable firms, and which serve to secure for authors, on both sides of the Atlantic, proceeds from the trans-Atlantic reprints of their works.

An experiment has recently also been tried by my own firm in the direction of securing the protection of American copyright for works by English writers who have consented to accept American "collaboration," and the plan has thus far worked successfully. All such arrangements can, however, at best be but makeshifts, which must not be permitted to relax in any degree the efforts now being made to bring about, at the earliest date possible, such measure of international copyright as shall secure the fullest protection and the largest returns for the work of both English and American writers.

## APPENDIX IV.

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### *Summary by Walter Besant.*

THE success of these Conferences, of which the foregoing is the Report, was in many respects far beyond anything hoped for by the projectors.

An animated correspondence began after the first Conference in every one of the London daily papers, with leading articles on the subject. As regards the letters, they were for the most part written by publishers, and were manifestly intended to turn aside the public attention from the two main points which my own paper was especially designed to bring into prominence, viz. :—

1. The existence of a wide spread system of making secret profits by

fraudulent returns of the cost of production. Nothing could be more significant than the wriggings of the writers about this point. One man, indeed, boldly confessed the fact and denied not.

2. The ease and safety with which such frauds may be practised, in consequence of the custom of withholding vouchers.

These letters, again, were mostly based upon imperfect information, and without any means of seeing my paper, which is now for the first time published. The reporters were supplied with a few copies of the first uncorrected proof, marked "private and confidential," but the paper itself has not been seen by anyone. It was handed by me after the Conference to Mr. Alex. Galt Ross, the Hon. Secretary, and has been kept by him at the Society's offices until he sent it to the printers. I again, however, assert in the most unqualified terms (1) That many publishing houses systematically falsify their accounts in order

to make a secret profit not in the agreement ; (2) That such a system is fraudulent ; (3) That the withholding of vouchers makes it possible ; and (4) That there can be no reason at all, *except the desire and intention to defraud*, for the withholding of vouchers.

One letter, however, stood out among the rest, and was remarkable because it did not try to evade the main point of the paper—the question of secret profits. It was the letter of Mr. George Smith addressed to the *Times* : it represents the views of a publisher long and honourably connected with the trade : and I suppose that it still continues to represent his views, though I have publicly contradicted some of the statements in the letter, because Mr. Smith has inserted the letter among the advertisements in some of the magazines. Since, however, it represents the views of a well-known publisher it is reprinted here.

The letter appears to be based upon an imperfect knowledge of my paper ; it

makes statements which I cannot accept ; it puts into my mouth things which I did not say ; it draws conclusions to which I cannot agree ; and it leaves my main question unanswered.

Thus Mr. Smith charges me with saying that all publishers make secret profits and render fraudulent accounts. I said no such thing. I said that a "custom had gradually sprung up." I repeat the words. If I had said that a custom of intemperance had gradually sprung up among us would Sir Wilfred Lawson charge me with accusing him, personally, or the whole nation, of drunkenness? The "imputation," as he calls it, is not made "rashly and lightly," but solemnly, seriously, and with full knowledge of the facts. We are in possession of facts which enable us to name nearly every publishing firm in London which pockets secret and fraudulent profits.

Again, Mr. George Smith says that vouchers are always produced when asked for. I maintain the direct contrary. Hitherto it has been considered insulting

to demand vouchers and they have been generally refused. Only the other day I heard a case in which a publisher flatly refused to show vouchers. Every publisher's letter which appeared in the papers testified to the rage and bitterness with which this mention of the production of vouchers was received. Why, Mr. George Smith himself actually holds it "intolerable" that publishers should "be subjected" to these demands. As if publishers alone among mortals are to have their accounts passed without examination! As if they alone are to refuse to show those portions of their books concerning the joint enterprise! As if the solicitor is to have his costs taxed, the manager of a company his accounts audited, every tradesman's bill to be checked and proved, and the publisher, alone of all mankind, should be publicly acknowledged as the one Honest Man, the Unique, and the Only!

Again, I did not charge publishers with keeping back "commission" books. I said

—which is perfectly true—that there is a wide-spread suspicion that they do this, and that the suspicion increases the ill-feeling which exists towards publishers. This is a very different thing. Does Mr. George Smith deny this ill-feeling? If he does, I should be glad if he could overhear the conversation on any day when authors meet and when the talk turns upon publishers.

Mr. Smith raises, as all publishers always do, the cry of risk. I repeat, therefore, what I said in my paper, that with a very large number of books there is no risk whatever. For every subject there is a certain public ; in every subject there are authors by the dozen whose name on the title page is enough to remove the least fear of risk. I do not say that publishers never incur risk : quite the contrary. They sometimes do ; in those cases they are right in making special arrangements : every time they buy a book, for instance, they may incur risk, because, though a book may be certain to pay the expenses



of production and something more, nobody knows exactly how much more that may be. But how many publishers do buy books? Perhaps there are half a dozen Houses at most, not counting the firms which produce children's books, goody goody books, and religious stories—things bought for a five pound note apiece. Therefore I put my question again, "Where there is no risk, what share in the proceeds of a book should be given to the publisher? Mr. Smith has not answered this question at all, except by talking about risk.

Where, however, we have to thank Mr. Smith is for the Form of Account, which ought to be useful for comparison by all of us. I have appended the same account *fraudulently treated*, also for comparison. The Society of Authors is able to inform every one of its members whether an account as sent in is fraudulent or not. As for Mr. Smith's statement that the production of vouchers would not stop cheating, that is in a sense true, but it would

make it more difficult to cheat, because it would necessitate accomplices in the shape of printers, binders, and paper makers, all of whom would have to sign receipts for sums they had not received—a proceeding which would bring them within measurable distance of Bow Street.

As regards the Form of Account rendered by Mr. George Smith, the following extract from the *Law Journal* is not without interest.

“The form of account supplied by Mr. George Smith last week “as applicable to a book published on the half-profit system” contains charges against the author which would not hold water in a court of law. The best feature of the form is the detail with which it gives the dates of payments out of pocket and the commissions or discounts allowed ; but what Mr. Smith gives with one hand he takes away with the other. Having carefully allowed the partnership the discounts, he as carefully takes them back to himself in the form of the item “interest on cash advanced, 5 per cent.,” the cash advanced being the money paid out of pocket, and the interest on it coming to within a pound of the sum credited to the partnership for discounts. The theory is that the publisher lends the money to the partnership, and therefore may charge interest for

it ; but such a proceeding is totally inconsistent with the relation of half partnership. The two halves of the capital supplied to the joint adventure are the author's manuscript on the one hand and the publisher's cash on the other, which has to be paid out of pocket ; and the publisher invariably agrees to pay these demands, which means paying them in cash, and not by borrowing money against the partnership. Mr. Smith's large "allowance to cover extra discounts to wholesale buyers" of 5 per cent. on the amount of the sales is also not admissable. These discounts are only chargeable to the partnership when actually allowed, and ought not to be charged by estimate. Strictly the same is true of the 5 per cent. on sales to cover bad debts, but as the true character of a debt may not be disclosed for a long period, an estimate may fairly be agreed upon ; but 5 per cent. is much too high. If these things are done in the green tree, what shall be done in the dry ? No doubt Mr. Smith will alter his form now these matters are pointed out ; but its publication, and still more its very general acceptance by authors, shows how fully the relation of author and publisher has been accepted as a *leonina societas*."

As regards the production of vouchers, the following extract from the same paper will be also found of interest :—

"Any lawyer will tell him [Mr. Besant] that a publisher on the half-profit system is the partner of

the author, and is bound to show his accounts and vouchers on demand. The same obligation lies on the publisher who publishes on commission in virtue of his character as the author's agent. The author has only to demand inspection of the vouchers and accounts from his publisher, and, if the publisher refuse it, to issue a writ in the Chancery Division indorsed for an account, whereupon, by the Rules of the Supreme Court, a summary order "for the proper accounts, with all necessary inquiries and directions, shall be forthwith made, unless the defendant by affidavit or otherwise satisfy the judge that there is some preliminary question to be tried." Should the inquiry satisfy the author that his suspicions were groundless, he will still be entitled to his costs, as the publisher failed to give him the information to which he was lawfully entitled; and he has all these rights without the special agreement for producing vouchers which Mr. Besant suggests, and as a necessary incident of the legal relation between him and his publisher. In the light of this simple piece of knowledge, *authors may usefully combine by employing an inspector of accounts, skilled in the current prices, who may be hired at a moderate fee from the Society by any member desiring to bring his publisher to book.*"

It is fair to say that the statement in the above paragraph that the publisher is the partner of the author has been disputed by

other legal authorities—notably Copinger. In the ordinary, not the legal and technical sense of the word, the publisher is of course the partner of the author in the half profit system.

Next, as regards the royalty question. In the year 1878 evidence was given before the Royal Commission by Mr. Herbert Spencer, and I think by others, in which Mr. Spencer assured the Commissioners that after deduction of expenses his royalties had amounted at times to 38 per cent. This is a strong corroboration of my statement that in the case of a successful six shilling book, the publisher can on a twenty per cent. royalty gain as much as the author.

We are very pleased to publish the remarks of Mr. Andrew W. Tuer and of Mr. G. H. Putnam. Those of the former are valuable, especially in the last paragraph which shows the common sense of the whole matter. Mr. Putnam's remarks are based chiefly on the American system of publishing. It appears that American

publishers are ahead of ours in having already adopted clear and distinct agreements. It does not appear, however, that these agreements have been submitted to authors' counsel for approval. I am at issue with Mr. Putnam in one point : he says that publishers should be compensated for time, skill, &c., by an openly charged commission. The word commission opens the door to every kind of fraud. Let us have done with it, and substitute in its place a fee openly charged and demanded, and regulated according to the character of the work.

The position taken by me in my paper was acknowledged at once by many publishers to be impregnable. Messrs. Longman & Co. were the first to offer the production of all vouchers ; they were followed by Messrs. Bentley & Son, Chatto & Windus, Field & Tuer, Macmillan & Co., John Murray, and perhaps one or two more whose names I have forgotten. Our best acknowledgments are due to these gentlemen for their readiness in accepting

the principle. Authors will doubtless note the Houses where no trouble will be raised when the vouchers are asked for.

In conclusion, the movement which has been started is not going to be allowed to drop. Its aims are all summed up in the simple question which I put before the audience and which has not yet been answered, "*Where there is no risk, what share in the proceeds of a book should be given to the publisher ?*"





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